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NOTE

The term 'Britain' is used informally in the *Survey of Current Affairs* to mean the United Kingdom of Great Britain and Northern Ireland. 'Great Britain' comprises England, Wales and Scotland.

Ministerial Changes

Following the resignation of Mrs Edwina Currie, MP, as Parliamentary Under-Secretary of State at the Department of Health on 16 December 1988, a number of new ministerial appointments have been made. Ministerial changes have also been announced in the Lord Advocate's Department following the resignation of the Lord Advocate, the Rt Hon The Lord Cameron of Lochbroom, on his appointment as a Senator of the College of Justice in Scotland.

The new appointments are as follows:

Ministry of Defence

Parliamentary Under-Secretary of State (Armed Forces)

Mr Michael Neubert, MP (former Vice-Chamberlain, Her Majesty's Household – a Senior Government Whip)

Department of Health

Parliamentary Under-Secretary of State

Mr Roger Freeman, MP (former Parliamentary Under-Secretary of State, Ministry of Defence)

Lord Advocate's Department

Lord Advocate

The Rt Hon Peter Fraser, QC[1] (former Solicitor General for Scotland)

Solicitor General for Scotland

Mr Alan Rodger, QC

HM Treasury

Vice-Chamberlain, Her Majesty's Household

Mr Anthony Durant, MP (former Lord Commissioner of the Treasury – a Government Whip in the House of Commons)

Lord Commissioner of the Treasury (Government Whip)

Mr Stephen Dorrell, MP (former Assistant Whip)

Assistant Government Whip

Mr Sydney Chapman, MP

[1]Mr Fraser has been appointed to the Privy Council and is to receive a life peerage.

By-election and State of the Parties

Details of the result of a recent parliamentary by-election and the present state of the parties in the House of Commons are given below.

The Conservative Party retained the seat at Epping Forest in a by-election on 15 December 1988. The seat became vacant following the death in September of the Conservative MP, Sir John Biggs-Davison. The Conservative candidate, Mr Steven Norris, won by a majority of 4,504. The result was as follows:

S. Norris (Conservative)	13,183
A. Thompson (Social and Liberal Democrats)	8,679
S. Murray (Labour)	6,261
M. Pettman (Social Democratic)	4,077

Five other candidates between them received a total of 1,215 votes; all lost their deposits. Votes were cast by 49·1 per cent of the electorate.

At the general election in June 1987, when 76·3 per cent of the electorate voted, the seat was held by the Conservative Party with Sir John Biggs-Davison polling 31,356 votes, followed by the Alliance[1] candidate with 10,023 votes, and the Labour candidate with 9,499 votes.

State of the Parties

Following the by-election and with two seats vacant, the state of the parties in the House of Commons is now as follows:

Conservative	373
Labour	225
Social and Liberal Democrats	19
Social Democratic	3
Scottish National	4
Plaid Cymru (Welsh Nationalist)	3
Ulster Unionist (Northern Ireland)	9
Democratic Unionist (Northern Ireland)	3
Social Democratic and Labour (Northern Ireland)	3
Ulster Popular Unionist (Northern Ireland)	1
Sinn Fein	1
Vacant seats (Pontypridd; Richmond, Yorkshire)	2
TOTAL	646

[1]The Liberal Party and the Social Democratic Party fought the 1987 general election as the Liberal-Social Democratic Alliance. In March 1988 the two parties merged to form the Social and Liberal Democrats, though a separate Social Democratic Party continues to exist (see p 94, 1988).

The four remaining seats are held by the Speaker of the House of Commons and his three deputies (the Chairman of Ways and Means and the first and second Deputy Chairmen of Ways and Means) who do not vote except in their official capacity in the event of a tie. The government majority over all the other parties is 102 although the Sinn Fein MP has not taken his seat.

Official Secrets Bill

The Official Secrets Bill, which has received its second reading in the House of Commons, is to replace section 2 of the Official Secrets Act 1911 with new provisions to protect limited classes of official information. It defines more clearly and narrowly than the White Paper published in June 1988 the areas of official information which would remain covered by the criminal law. The Bill sets out the six categories of information to be protected by the criminal law against unauthorised disclosure, identifies the persons to whom the Act would apply and in what circumstances and, where applicable, sets out the test of 'harm to the national interest' which the prosecution would be required to satisfy in each case pursued through the judicial process, as well as defining the defences available to Crown servants and others.

The proposals in the Bill broadly follow and more narrowly define those set out in the White Paper, *Reform of Section 2 of the Official Secrets Act 1911*, published on 29 June 1988 (see pp 219-21, 1988).

MAIN PROVISIONS

Security and Intelligence

The Bill seeks to create two offences of disclosing information relating to security or intelligence. The first would apply to members and former members of the security and intelligence services and would prohibit them from disclosing any information relating to (or purporting to relate to) security or intelligence matters. It would also be an offence for any other Crown servant or government contractor to make a disclosure, without lawful authority, of such information if that disclosure caused or would be likely to cause damage to the work of the security and intelligence services. In both cases, the Bill allows for the defence of 'not knowing' and 'having no reasonable cause' for believing that the information in question related to security or intelligence matters. Those charged with the second offence would also be allowed the defence of 'not knowing' and 'having no reasonable cause' for believing that their disclosure was likely to be damaging.

Defence and International Relations

It would be an offence for Crown servants or government contractors to make unauthorised disclosure of matters relating to defence if this prejudiced the capability of the armed forces to carry out their tasks. So also would be unauthorised disclosure of information received in confidence from another State or an international organisation if it jeopardised the interests of Britain abroad or endangered the safety of British citizens abroad. In such cases, it would be possible for the defendant to argue that it was 'not known', or that there was 'no reasonable cause' to believe, that the information was of the nature specified or that the disclosure was likely to be damaging.

Crime and Special Investigative Process

This form of defence would also be available to Crown servants or government contractors in cases involving the unauthorised disclosure of information which led to offences being committed, facilitated the escape of persons in custody, or impeded the prevention or detection of crime or the apprehension or prosecution of offenders. An offence would also be committed if unauthorised disclosure were made of official information obtained through interception of any communication by means of warrants issued under the Interception of Communications Act 1985 (see pp 91-4, 1985) or of the Security Service Bill (see pp 6-7).

Unauthorised Disclosure by Other Persons

The Bill would make it an offence for someone who was not a Crown servant or government contractor to make unauthorised disclosures of official information (as defined in the Bill), where such information had been entrusted to that person, or had came into his possession as a result of an unlawful disclosure by a Crown servant or government contractor. The prosecution would need to prove that the person accused of such an offence knew, or had reasonable cause to believe, that the information in question was protected and, where there was a test of harm, that its disclosure was likely to be harmful. It would also be an offence to disclose information obtained as a result of a breach of section 1 of the 1911 Act, which deals with espionage.

Confidential Information Between States and International Organisations

Disclosure of information which concerns security and intelligence, defence, or international relations, would be an offence where this information was originally provided by the Government in confidence to another State or an international organisation. In such cases, the prosecution would have to prove not only that the information in question was covered by the Bill, but that the defendant knew it was protected, that its disclosure caused or was likely to cause the harm specified in the Bill, that the defendant knew that disclosure would cause harm, and that the State or organisation concerned had not authorised disclosure or made the information public.

Authorised Disclosures and Information Safeguards

The Bill defines the circumstances in which the disclosure of any information to which the Bill applied would be made with lawful authority. It provides a general defence for anyone charged with any offence of making an unlawful disclosure that he believed he had lawful authority to make the disclosure in question. The Bill also creates minor

offences concerning the retaining of protected documents and failure to take care of them, and an offence of disclosing information which facilitated unauthorised access to protected information.

Prosecutions and Penalties

Prosecutions for offences under the Bill would only be brought in England, Wales and Northern Ireland with the consent of the Attorney-General, with the exception of certain cases concerning information relating to crime where the consent of the Director of Public Prosecutions would be required. In Scotland the Lord Advocate would be responsible for all prosecutions.

The maximum penalties proposed for offences would be: on conviction on indictment, two years' imprisonment or a fine, or both; and on summary conviction, six months' imprisonment or the statutory maximum fine (at present £2,000), or both. For those offences relating to the retention of documents and which would be triable summarily only, the maximum penalty proposed would be three months' imprisonment or the statutory maximum fine (at present £2,000), or both.

Crown Servants and Government Contractors

The Bill defines 'Crown servant' and 'government contractor'. The former includes Ministers of the Crown, civil servants, members of the armed forces and police officers. 'Government contractors' are defined as persons other than Crown servants who provide goods or services for the purposes of any Minister or body of Crown servants.

PARLIAMENTARY DEBATE

The Bill was given a second reading in the House of Commons on 21 December 1988 by 298 votes to 221 (*Hansard*, Vol 144, No 22, cols 460-545).

Government View

Opening the debate, the Home Secretary, Mr Douglas Hurd, explained how the proposed reforms were conservative in that their essential purpose was to protect the citizen effectively from specific and grave dangers. But they were also radical because they defined clearly what had been confused for a long time. In addition, the Government felt they were right because they struck a balance designed for the conditions of 1988.

By greatly reducing the scope of the criminal law with respect to official information, the Bill's provisions would provide a modern, fair and effective means of protecting Britain's necessary secrets. It would also remove the protection of the criminal law from the great bulk of 'sensitive and important' official information, so that Cabinet discussions on education, on health and on social security, and economic information and budget preparations among other things, would no longer have the protection of the criminal law. Nor would protection be granted to material which came within the Bill's definitions of 'protected areas' but which, nevertheless, failed to meet the relevant 'harm test'.

The official information now to be protected was classified and defined within six limited areas. Within these areas, a number of tests of harm were introduced which the prosecution would have to prove in any case of unlawful disclosure of official information protected by the Bill. The criminal law was to protect, and protect effectively, information whose disclosure was likely to cause serious harm to the public interest, and no other.

A harm test had been introduced in the Bill for the unauthorised disclosure of information received in confidence from a foreign government or international organisation, whereas the White Paper had referred to a disclosure which might prejudice dealings with another government or international organisation. Under the provisions of the Bill, the prosecution would have to prove that the disclosure jeopardised United Kingdom interests abroad. The Government felt it was reasonable that the criminal law should operate against those who deliberately breached the confidence of another country or international organisation when they had good reason to know that such breaches were likely to harm Britain's interests abroad. The test was not about maintaining good relations with other countries but whether a disclosure would jeopardise the interests of the United Kingdom abroad.

The White Paper had mentioned penalising disclosure of information likely to be useful in the commission of offences. The Bill provided a narrower and more precise definition of the offence of disclosure by stipulating that the prosecution would have to prove that the disclosure resulted in the commission of an offence or was likely to do so.

The Bill also made clear what information was to be protected in the area of interception. That category was related specifically and only to the unauthorised disclosure of information about, or arising from, a special investigation. Such an investigation had to be undertaken under the authority of a warrant issued by the Secretary of State under the Interception of Communications Act 1985 or, if Parliament agreed to the Government's proposals, under the Security Service Bill.

The Government rejected arguments in favour of a defence being allowed on the basis of the 'prior publication' of official information. Since it was felt that there could never be any certainty about such matters, the Government proposed, with the very narrow exception of special investigations, to leave the jury to decide whether a defendant who published information had caused no harm beyond that created by any earlier unauthorised publication, rather than admit an over-arching defence.

In rejecting arguments for a 'public interest' defence to be allowed in cases of disclosure of official information, Mr Hurd emphasised that the Bill invited Parliament to establish the few areas and cases in which a disclosure would always cause harm and, in all the other areas, provide a harm test which would allow the defendant to make precisely those points. It was for Parliament to make clear to the courts what it believed to be in the public interest for the protection of official information, as well as those matters which should now be regulated by the criminal law. The Bill would enable a jury to consider whether any public interest tests would have been met in respect of an individual case because of the 'harm' criteria.

Mr Hurd acknowledged that some Members of the House would find the arguments about public

interest hardest in the context of the Government's proposals that members of the security and intelligence services, and some who worked with them, should continue to be subject to the criminal law if they made any unauthorised disclosure about their work. The Government felt it was right that there should be safeguards and controls in this area, and had introduced the Security Service Bill (see pp 6-7) which proposed clearer controls and safeguards.

Opposition Views

Speaking for the official Opposition, Mr Roy Hattersley said that the Bill was not intended to facilitate a free flow of official information, but was designed to provide a new method by which the availability of information could be reduced and obstructed. Only a freedom of information Bill would facilitate a free flow and provide information about the actions of Government which was freely available in other democracies. Nor, in the Opposition's view, were the proposed reforms satisfactory. While the Opposition agreed that there were classes of information which should remain secret, differences remained over three essential questions: how to define the categories of information which, were they made public, would so damage the state that their publication must be an offence; who should be the arbiter of whether information came into that category; and what procedures should be followed to prosecute and convict those who were suspected of publishing information which it was necessary to keep secret.

For the Social and Liberal Democrats, Mr Robert Maclennan argued for the necessity of a freedom of information act and said that the Bill seemed designed more to tighten control over certain categories of information than to advance openness of government. Instead of placing on the authorities the responsibility for justifying secrecy, the Bill continued to charge the public with responsibility to justify access and denied the possibility of any public interest defence.

Security Service Bill

The Security Service Bill, which proposes to put the security service and its functions on to a statutory basis for the first time, received its second reading in the House of Commons on 15 December 1988. The Bill received 204 votes in favour and 105 against.

THE BILL'S PROPOSALS

The Bill proposes that the security service should operate within functions defined in law and under the authority of the Home Secretary. These functions are defined: first, the protection of national security (see below), particularly against threats from espionage, terrorism and sabotage, from the activities of agents of foreign powers and from actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means; second, safeguarding the nation's economic wellbeing against threats posed by the actions or intentions of persons outside Britain.

The director-general of the security service would be required to ensure that no information was obtained by the service except so far as was necessary for the proper discharge of its functions, or disclosed by it except so far as necessary for that purpose or for the purpose of preventing or detecting serious crime. He would also be responsible for ensuring that the service did not take action to further the interests of any political party. No information should be disclosed by the service for use in determining whether a person should be employed, except in accordance with provisions approved by the Home Secretary, who would also have the power to issue warrants authorising actions to obtain information which involved entry on or interference with property only when satisfied that the information was likely to be of substantial value and could not be obtained by other means.

An independent commissioner who held or had held high judicial office would be appointed to review the issuing of warrants and report annually to the Prime Minister. The commissioner's reports would be published, subject to omissions on grounds of security. Everyone in the security service should disclose any documents or information required by the commissioner.

A tribunal of three to five lawyers would be appointed to receive and decide on complaints from members of the public aggrieved by anything they believed the security service had done in relation to them or to their property; where a warrant in respect of a complainant's property was involved, the complaint would be transferred to the commissioner for a decision, and the tribunal would also be able to refer wider matters arising from the complaint to the commissioner. Where the tribunal or commissioner found in favour of the complainant, they would be empowered to order that any enquiries about the complainant should end, records about them be destroyed, warrants quashed and appropriate compensation paid.

PARLIAMENTARY DEBATE

Government View

Opening the debate in the House of Commons on 15 December (*Hansard*, Vol 143, No 18, cols 1,112-87), the Home Secretary, Mr Douglas Hurd, said that the Bill set out the main responsibilities of the service for the protection of national security. The expression 'national security' referred to matters relating to the survival or well-being of the nation as a whole, he said, and not to party-political, sectional or lesser interests.

The security service had to be able to act against any substantial threat to the nation as a whole. It was not primarily concerned with matters relating to defence and foreign policy, but would not remain inert in the face of threats to the nation's defence or the hostile actions of a foreign government. However, it could not act in any of those areas unless the security of the nation as a whole was in question. The Bill would not permit the security service to act against any person or organisation just because they had campaigned against the policies

of the government of the day. It made 'the political neutrality of the security service a statutory requirement for the first time'.

In recent years, the Home Secretary said, the security service had been in the forefront of the fight against terrorism and the shift in the emphasis of its work towards counter-terrorism had been marked and successful. Since the war, it had provided information about espionage that had led to the possibility of successful and decisive action against hostile intelligence agents in Britain.

Mr Hurd observed that the question of counter-subversion caused some concern, but he believed that the security service had to undertake that task, within the limits set out in the Bill. He said that it was not sensible to define subversion only in terms of those who breached the criminal law: the definition used by the Government was that given by Lord Harris of Greenwich in 1975.[1] Under the definition, however, the security service could only take an interest in people who intended deliberately to undermine parliamentary democracy and who also represented a real threat to the security of the nation; Mr Hurd considered this to be a fairly narrow and precise definition.

The issue of warrants for entering property to obtain information, as with the issue of warrants for interception of communications (governed by the Interception of Communications Act 1985; see pp 92-4, 1985), would be under the scrutiny of a judge as the independent commissioner. Every warrant would be open to the commissioner's scrutiny. The Government had considered other systems for the oversight and review of the security services, Mr Hurd said – these included oversight by a committee of privy counsellors or a body that drew more widely on members of parliament – but it did not favour them because of the need for secrecy, which was at the heart of security affairs.

Opposition Views

Speaking for the official Opposition, Mr Roy Hattersley said that the Bill did not recognise problems concerning the accountability and efficiency of the security services and the civil liberties of the nation. It did not even come close to a scheme of genuine accountability, and it allowed Parliament and the public to know no more about the security services than they knew already. Its provisions increased the security service's powers to carry out operations that should be prohibited in a free society.

Mr Hattersley said that there was a need for a small group of men and women of undoubted probity within Parliament at least to exercise a degree of general supervision of the security service. He said that the criteria set out in the Bill for issuing warrants were far too vague. Neither the Home Secretary nor the security service was a suitable arbiter. The power given the Home Secretary was unchecked and should be exercised only under supervision. Only an official secrets act that did not allow the security service's covert activities to be protected permanently could guarantee that they would not act unlawfully. No appeal was allowed against the tribunal's decision regarding complaints and its judgment could not be questioned in court.

Speaking for the Social and Liberal Democrats, Mr Robert Maclennan said that his party would vote against the Bill because it had failed on three counts. First, it did not define the role of the security service properly, and had some 'catch-all' provisions that would enable it to interfere almost unchecked with individuals and their property – actions which would almost certainly have fallen foul of the law in the past. Second, it was difficult to see how the proposed remedy for aggrieved members of the public could be effective; by excluding the purview of the courts, it removed the redress the individual citizen had at present. Third, it failed entirely to provide for effective scrutiny and parliamentary accountability. He felt too that the wording of the Bill did not precisely reflect Lord Harris's criteria, and that the concept of subversion was unhelpful and should have been specifically excluded from the Bill.

[1] This defines subversive activities as those which threaten the safety or well-being of the state, *and* are intended to undermine or overthrow parliamentary democracy by political, industrial or violent means. Both parts of the definition must apply before an activity can properly be regarded as subversive.

Extradition and Terrorism

Britain has expressed its concern at the refusal of Belgium and the Republic of Ireland to allow Patrick Ryan, a former Roman Catholic priest from Ireland, to be extradited to Britain, where he is wanted on charges related to terrorism. The Government has also called for closer co-operation between members of the European Community on the extradition of suspected terrorists.

Patrick Ryan

Background

Following Patrick Ryan's arrest in Belgium on 30 June 1988, the British Government sought his extradition[1] in respect of four offences: conspiracy to murder, conspiracy to cause explosions, possession of explosives with intent to endanger life or cause serious injury, and possession of explosives without a lawful object. His extradition was authorised by the Belgian court of first instance (on 26 September, subject to the approval of the Minister of Justice) and by the Court of Appeal (on 12 October) in respect of the two conspiracy charges. The case was then considered by the Belgian Minister of Justice and on 25 November the Belgian Government refused to order extradition and ordered Patrick Ryan's repatriation to the Republic of Ireland, which was carried out the same day. The extradition request was refused on the grounds that the charges contained in the British arrest warrants were imprecise and did not constitute the necessary elements for the offence of conspiracy in Belgian law.

[1] Extradition from Belgium is governed by a bilateral treaty signed in 1901.

An application to the Irish authorities for Patrick Ryan's arrest in the Republic of Ireland was made by the Crown prosecution service on 25 November. On 1 December the Irish Attorney General's Office asked for clarification and further information on certain matters pertaining to the case set out in the warrants of 25 November. Replies to this request were transmitted on 2 December. On 13 December the Irish Attorney General refused extradition. While accepting that there was a clear intention to prosecute founded on sufficient evidence on at least two of the charges (those concerning the possession of explosives), he concluded that the publicity given to the case, including prejudicial allegations made in the House of Commons[1] and the British press, made a fair trial before a jury in Britain impossible. He offered co-operation in mounting a prosecution in the Republic.

Attorney General's Statements

Speaking to the House of Commons on 1 and 7 December (*Hansard*, Vol 142, No 8, cols 875-6; Vol 143, No 12, cols 162-3), the Attorney General, Sir Patrick Mayhew, said he was satisfied that the request for Patrick Ryan's extradition from Belgium had been accompanied by the appropriate legal documents prepared properly to meet the requirements of Belgian law. The Government had consulted the Belgian prosecuting authority before extradition proceedings were initiated, and Britain had been given no reason by the Belgian authority to suppose that the request might fail to satisfy Belgian legal requirements.

Secretary of State's Statement

At a press conference in Belfast on 14 December 1988, following a meeting of the Anglo-Irish Intergovernmental Conference (see p 132, 1988), the Secretary of State for Northern Ireland, Mr Tom King, expressed the Government's concern over the Irish Attorney General's decision not to extradite Patrick Ryan and stated that his claim that Ryan would not be able to receive a fair trial in Britain was quite unacceptable. Mr King also stated that the grounds identified by the Irish Attorney General in his decision went far beyond those indicated to Britain when the Republic's Extradition Act was passed.[2] This raised a significant new problem in the arrangements for extradition, about which representations had already been made. When the Act was passed the Irish Government had undertaken to review the arrangements if they did not work satisfactorily. Britain now requested the Irish authorities to give effect to this undertaking and would soon be forwarding further views on the problems that had arisen.

Mr King said that these were serious issues, because Britain believed that an effective system of extradition between the two countries was an important element in the response to terrorism. In the present situation both the British and Irish Attorney Generals believed that there was a case to be answered in court, and yet the person concerned was still at liberty. Only terrorists could benefit from the inability of the two countries to operate an effective extradition system.

Trevi Group

The Home Secretary, Mr Douglas Hurd, has called for closer co-operation between member states of the European Community on the extradition of suspected terrorists. Speaking on 9 December at a meeting in Athens of the Trevi Group (a group of European Community internal affairs and justice ministers that facilitates the confidential exchange of intelligence about terrorism affecting member countries), Mr Hurd emphasised the crucial importance of extradition as a weapon in the fight against terrorism. He suggested that the key to avoiding problems in sensitive extradition cases involving suspected terrorists was to ensure that there was close co-operation between the authorities of the countries concerned at the earliest possible stage. Any difficulties should be drawn to the attention of ministers as soon as possible so that they could consider ways in which the problems might be overcome. This kind of co-operation was essential to ensure that suspected terrorists were brought to justice.

The Home Secretary stated that the other members of the group had agreed with Britain's proposal that the possibility of other improvements in extradition arrangements between member states of the Community should be considered further by the separate Community working group of officials that already existed to develop judicial co-operation. He pointed out that there was already a European Convention on Extradition (1957), which most members of the Community had ratified. This provided a mechanism for extradition which was as simple as possible, but incorporated the necessary safeguards for the protection of civil liberties. Britain had not hitherto been able to ratify the Convention because of the requirement in British law that extradition requests should be accompanied by evidence that made out a *prima facie* case against the fugitive. However, recent changes to legislation (the Criminal Justice Act 1988; see pp 39 and 331, 1988) would make it possible for Britain to ratify the Convention in 1989, and Mr Hurd urged the other Community member states that had not yet acceded to the Convention (Belgium and Portugal) to do so as soon as possible. This would create a common extradition agreement within the Community, providing a sound basis on which to build other improvements in the arrangements.

Mr Hurd also expressed the hope that the Community could find other ways to co-operate more closely in the investigation and prosecution of crime, while recognising that the member states would continue to have different legal systems for the foreseeable future. Britain would contribute to this process by ratifying the European Convention of Mutual Assistance in Criminal Matters (1959), which facilitates co-operation in such matters as the provision of evidence and the production of witnesses for proceedings in other countries. Britain intended to sign the Convention once the necessary legislation had been approved by Parliament.

[1]The case was raised in the House of Commons on 1 December 1988 (*Hansard*, Vol 142, No 8, cols 875-84).

[2]The Irish Republic's Extradition (Amendment) Act 1987 requires that in responding to a request for extradition the Irish Attorney General must satisfy himself as to the intention to prosecute the fugitive and the sufficiency of the evidence (see p 397, 1987). The Extradition Act of 1965, which this modified, provided for the backing of British warrants by the Irish police, rather than formal extradition.

Shorter Note

PREVENTION OF TERRORISM BILL

Following the judgment of the European Court of Human Rights in November 1988 that Britain's anti-terrorism legislation breached Article 5 of the European Convention on Human Rights (see pp 406 and 408, 1988), the Government has decided, as a temporary measure, to exercise its right of derogation (that is, the right to annul or restrict the strength of Britain's obligation) under the Convention in respect of the powers to detain persons on reasonable suspicion of involvement in the commission, preparation or instigation of an act of terrorism. (Article 5.3 states that an arrested person 'shall be brought promptly before a judge or other officer authorised by law to exercise judicial power'.)

In a statement to the House of Commons Standing Committee on the Prevention of Terrorism Bill (see pp 404-8, 1988) on 22 December 1988, the Home Secretary, Mr Douglas Hurd, explained that the Government wanted to introduce a judicial element into the procedure for authorising extensions of detention under the legislation, if this could be achieved. Britain's criminal justice system, however, was radically different from the inquisitorial systems of the continental countries to which the European Commission and the European Court were more accustomed, and it would not be easy to graft the procedures of one to the other. The Government was also concerned to ensure that information about terrorist intentions, which often formed part of the case for an extension of detention, did not find its way back to the suspected terrorists as a consequence of British judicial procedures which generally required that an accused person and his legal advisors should know the information alleged against him.

Discussions with the judiciary had persuaded the Government that a further period of reflection and consultation was needed before it could form a firm and final view. In the meantime, it was necessary that the police should continue to have the powers they needed to counter terrorism, hence the decision to give notice of derogation under Article 15 of the Convention.

Mr Hurd concluded that the Government would proceed with great caution to make sure that a workable and credible system was in sight before deciding finally which of the routes – the judicial route or derogation – should be permanently selected.

Source: Home Office press notice, 22.12.88.

Chemical Weapons

Britain has welcomed the successful conclusion of the Paris chemical weapons conference which, in its Concluding Declaration, reaffirmed the commitment to the 1925 Geneva Protocol and called for early agreement on a global ban on chemical weapons.

Following an initiative of the United States, the conference was convened in Paris between 7 and 11 January. Attended by 149 countries, including Britain, the Soviet Union, the United States and the other signatories of the 1925 Geneva convention on biological (bacteriological)[1] and chemical weapons (called the Geneva Protocol), the meeting discussed the need to secure a global ban on the use, manufacture or stockpiling of chemical weapons. The Geneva Protocol only bans the use in war of biological and chemical weapons, not their production and storage. The conference was held in the light of international concern about the continuing use of chemical weapons in the Iran-Iraq war, as well as the danger of proliferation (including, recently, reports of a chemical weapons plant being built in Libya, see pp 13-14).

In a statement to the House of Commons on 13 January (*Hansard*, Vol 144, No 27, written answer, col 773), Mr Timothy Eggar, Parliamentary Under-Secretary of State at the Foreign and Commonwealth Office, said that Britain welcomed the conference's Concluding Declaration, since it both recognised the importance and continuing validity of the 1925 Geneva Protocol and contained an undertaking by all not to use chemical weapons. The Declaration also expressed support for the Geneva chemical weapons negotiations and the role of the United Nations in investigating allegations of use. 'The successful outcome of the conference represents a considerable step forward in international efforts to eliminate chemical weapons,' he concluded; 'we now have to build on this.'

Concluding Declaration

In the conference's Concluding Declaration of 11 January, adopted by consensus, the participating countries expressed their determination 'to prevent any recourse to chemical weapons by completely eliminating them', affirmed their commitment not to use them, and expressed serious concern, also voiced at the United Nations (see p 298, 1988), at recent violations. The Declaration recognised the importance and continuing validity of the Geneva Protocol; its signatories 'solemnly reaffirm the prohibition as established in it' and called upon other states to accede to the 1925 convention.[1] The Declaration also stressed the need to conclude at an early date a global, comprehensive, and effectively verifiable convention on the prohibition of the development, production, stockpiling and use of all chemical weapons, requesting all countries to help in the negotiations and to sign the convention when it had been reached.

Expressing concern about 'the growing danger posed to international peace and security by the risk of the use of chemical weapons', the participating countries called on all states 'to exercise restraint and to act responsibly in accordance with the purpose of the present declaration' until a chemical weapons convention entered into force. They also affirmed their view that the United Nations provided 'a framework and an instrument enabling the international community to exercise vigilance with respect to the prohibition of the use of chemical weapons', and confirmed their support for the steps taken to strengthen the efficiency of UN procedures and for the role of the UN Secretary-General in investigating alleged violations of the Geneva Protocol.

Britain's Views

In his speech to the conference on 9 January, Mr William Waldegrave, Minister of State at the Foreign and Commonwealth Office, referred to the fact that East-West relations were now better than for many years. The Intermediate Nuclear Forces (INF) Treaty (see pp 9-11 and 191-3, 1988) was being implemented and the Conference on Security and Co-operation in Europe (CSCE, see p 199, 1988) was drawing to a successful close[2]; the proposed Conventional Stability Talks had been helped by the

[1]A Biological Weapons Convention was signed in 1972. The Convention prohibits the development, production, stockpiling and acquisition of biological agents or toxins, and also of weapons systems designed to use such agents or toxins for hostile purposes (see pp 319-20, 1986). The United States believes that some nations are violating this Convention in manufacturing and stockpiling biological weapons.

[1]A further 13 states acceded to the Protocol during the conference, bringing the number of countries party to it to over 120.

[2]The Final Document ending the CSCE Conference in Vienna was signed by the foreign ministers of the 35 countries on 15 January. The Document includes sections on extending human rights and easing trade and information exchanges; it also sets out the framework for talks between the North Atlantic Treaty Organisation (NATO) and the Warsaw Pact to reduce conventional arms in Europe.

speech of the Soviet leader, Mr Mikhail Gorbachev, to the United Nations General Assembly in December 1988 (see p 415, 1988).

Absent from this list of achievements were chemical weapons, Mr Waldegrave pointed out. Despite the prohibition on them in the Geneva Protocol and the progress made in the negotiations at the Geneva Conference on Disarmament for a complete ban (see pp 297-9, 1988), international efforts had failed to control the repeated use in recent years of chemical weapons in the Gulf war and there were increasing reports of their proliferation elsewhere.

Danger of Proliferation

The widely felt revulsion at the use of chemical weapons during the Gulf conflict and the compelling evidence of their use against the Kurds since the ceasefire lay behind the United States' proposal to convene the Paris conference, the Minister said (see p 333, 1988). However, chemical weapons were a global not regional problem, since the risk of their proliferation potentially affected everyone. The indications were that more countries were acquiring or trying to acquire chemical weapons. Proliferation 'increases the risk of chemical weapons use. The result is a vicious circle: the more states possess chemical weapons, the more others may feel a need to follow suit. Those countries involved in the proliferation and use of chemical weapons bear a heavy responsibility for their actions.'

Mr Waldegrave also pointed out that there was no valid argument to justify the proliferation of chemical weapons by relating it to the existence of nuclear or conventional weapons. The major nuclear alliances were moving towards far-reaching agreements limiting nuclear weapons, of which the INF Treaty was the first, while every country should sign the Non-Proliferation Treaty.[1] The willingness of the nations concerned to make progress in the control of nuclear weapons ought to encourage the belief that the Geneva chemical weapons negotiations would also be successful provided that there was the necessary political will.

Conference Objectives

The conference sought to enhance the authority and effectiveness of the Geneva Protocol, and to give greater impetus to the Geneva chemical weapons negotiations. The latter aim was the more ambitious, but a total ban on production and possession as well as use was the only long-term guarantee against the threat of chemical weapons. There were formidable difficulties in the way of success, including the need to cover the increasingly sophisticated civil chemical industry and, most importantly, the question of verification, but much progress had been made.[2] However, while the basic elements of an intrusive verification regime were accepted in principle, and thinking had started on the organisation and structure needed to implement a ban, there was a vast amount of work still to be done to transform areas of agreement in principle into practical arrangements.

In addition, Britain felt it particularly important to pursue a policy of openness about chemical weapons. There was an unusual amount of distrust and abhorrence on this subject: chemical weapons were intangible, insidious and, unlike other weapons systems, could not be seen or counted. One of the greatest problems in the Geneva negotiations was the continuing lack of openness: 'Secrecy is always the enemy of progress . . . Without openness, there can be no confidence. And without confidence there will certainly be no ban on chemical weapons.' The Government had tried to build confidence through an exchange of visits to British and Soviet military chemical establishments in 1988, but, although limited progress was made, he had to point out that the exchange 'fell a long way short of the *glasnost* which will be necessary if we are to have the confidence required to bring our negotiations to a successful conclusion'.[1] However, Mr Shevardnadze's speech to the conference (see below) was 'a potentially helpful step forward' and Britain looked forward to his excellent words being followed up by action.

Openness, Mr Waldegrave continued, was partly a question of confidence and partly about practicalities, since without detailed information about current facilities and capabilities it would not be possible to get a grip on the extent of the problem and to answer questions such as the likely cost of implementing the convention. It was evident that the cost would be very high, but one also had to ask whether the cost of failure would be much higher. No half measures were possible, and a 'quick fix' agreement based on inadequate information and without proper provision for verification would not remove the temptation to cheat, since it would leave room for suspicions and ultimately increased proliferation.

Towards a Global Ban

Pending the achievement of a comprehensive ban, countries at the conference had to emphasise their rejection of the use of chemical weapons and the importance of the Geneva Protocol, for they all had an interest in its reinforcement. Britain had proposed to the United Nations in 1988 three steps to achieve this: universal accession to the 1925 Protocol; support for the United Nations and its Secretary-General to investigate promptly allegations of chemical weapons use; and speedy and effective action by the international community to cut off the supply of key precursors (that is, chemicals which can be used in the production of supertoxic agents) wherever the use of chemical weapons was clearly established (see pp 333-5, 1988).

Mr Waldegrave said, in conclusion, that the world was at a crossroads: 'in one direction lies an effective taboo on chemical weapons use and a comprehensive ban which alone can remove the

[1]The 1968 Non-Proliferation Treaty, to which Britain, the Soviet Union and the United States are the depository governments, prohibits the transfer of nuclear weapons or devices and their control to non-nuclear weapons states. So far 136 countries have signed the Treaty. (See pp 291-3, 1985.)

[2]For information on British initiatives at the Geneva conference see p 297, 1988.

[1]In May 1988 Soviet representatives were shown around Britain's chemical defence establishment at Porton Down where the effectiveness of British research on defences against chemical and biological warfare was displayed. In the exchange visit to a Soviet chemical warfare production plant at Skikhany at the end of June, a British request to see part of the plant was refused.

menace of proliferation. On the other, the prospect of further proliferation, and increasing instances of use. It is obvious where our interests lie. We need action by all, here and in Geneva.'

Other Views

Speaking to the conference on 7 January, the United States' Secretary of State, Mr George Shultz, warned that the spread of chemical and biological weapons and the access of terrorists to these weapons posed one of the most serious threats to the survival of mankind. Each country had to take steps to strengthen its political commitment to expose the threat of chemical weapons and to control their spread and use, while those states that had not done so should accede to the Geneva Protocol. He also called for the reinforcement of the United Nations' ability to investigate allegations of illegal use of chemical weapons in armed conflict. In addition, there was an urgent need to achieve greater international restraint in the export of chemical weapons-related technologies, chemicals and weaponry.

In his speech to the meeting on 8 January, the Soviet foreign minister, Mr Eduard Shevardnadze, announced that his country would begin unilaterally to destroy its chemical weapons even before an international treaty was completed as soon as a special destruction plant had been completed this year. He said that the Soviet Union was now publishing data on its past production and would invite foreign observers to watch the elimination process. The Soviet Union had in 1987 ended the production of its chemical weapons; none were based outside its territory and none would be transferred to other countries.

The foreign minister called all countries which were producing or intended to produce chemical weapons to stop doing so and to make a contribution towards concluding a convention on their elimination. On the terms of the convention, Mr Shevardnadze asked for short-notice challenge inspection of any site or facility with no right of refusal.

Background

Britain has been active for many years in negotiations on chemical weapons elimination, and has made a number of important proposals and papers to the 40-nation Conference on Disarmanent in Geneva. It also considers that after the signing and ratification of the INF Treaty the elimination of chemical weapons should be one of the priorities of the disarmament process (see p 195, 1988).

Britain has had no chemical weapons of its own since the 1950s; the United States stopped production in 1969, but in view of the Soviet stock of chemical weapons (estimated to be 300,000 tonnes) agreed with its NATO partners in 1986 to begin the first stage of a plan to modernise its limited stock of chemical weapons with the production of binary munitions. (A binary agent is of relatively low toxicity, but when mixed with another, different binary agent becomes supertoxic.) The Soviet Union announced in April 1987 that it would cease chemical weapons production. (See pp 297-9, 1988.)

Middle East

ARAB-ISRAEL DISPUTE

Britain and the European Community have welcomed the recent decisions of the Palestine National Council and Palestine Liberation Organisation renouncing terrorism and recognising the state of Israel, and Mr William Waldegrave, Minister of State at the Foreign and Commonwealth Office, has had talks with Mr Yasser Arafat, the Chairman of the Palestine Liberation Organisation.

Recent Developments

On 14 November 1988 the Palestine National Council (PNC), meeting in Algiers, endorsed UN Security Council Resolution 242, passed in 1967, which called among other things for the acknowledgment of the sovereignty, territorial integrity and political independence of every state in the area and their right to live in peace within secure and recognised boundaries. The Council also accepted UN Security Council Resolution 338, of 1973, which called for the immediate implementation of Resolution 242 (see p 311, 1985). On 15 November the Council declared the West Bank and Gaza Strip territories occupied by Israel since the 1967 Arab-Israeli war to be an independent Palestinian state.

Further statements by the Chairman of the Palestine Liberation Organisation (PLO) in Stockholm on 7 December and in Geneva (where he addressed the UN General Assembly) on 13 and 14 December reaffirmed the PNC's decisions, with more explicit recognition of the state of Israel and renunciation of all forms of terrorism. On 15 December the UN General Assembly voted in favour of setting up an international conference on the Middle East under UN auspices with the participation of all parties to the conflict on an equal footing, including the PLO. In another resolution it also acknowledged the PNC's declaration of a Palestinian state. Britain and the other members of the European Community voted in favour of the first resolution and abstained from voting on the second.

On 9 December a PLO representative, Mr Bassam Abu Sharif, met Mr William Waldegrave, Minister of State at the Foreign and Commonwealth Office, in London, reaffirming Palestinian support for Security Council resolutions 242 and 338 and for the principle that all states in the region (including Israel) had the right to exist behind secure borders. He also reaffirmed the PLO's opposition to all forms of terrorism and violence. Official talks between the United States and the PLO were held in Tunis on 16 December. On 13 January Mr Waldegrave met Mr Arafat in Tunis.[1] The Israeli Government has indicated that it would consider peace talks with Arab states under United Nations or superpower auspices, but not with the PLO. It has also expressed its disappointment at Mr Waldegrave's meeting with Mr Arafat.

[1]Since 1985 Britain has insisted on the PLO meeting three preconditions for high-level contacts: recognition of UN Security Council resolutions 242 and 338; explicit recognition of Israel's right to exist behind secure borders; and unconditional renunciation of violence and terrorism. High-level talks with a Jordanian-Palestinian delegation arranged in October 1985 were cancelled because these preconditions were not accepted by one of the Palestinian representatives (see pp 311-12, 1985).

Foreign and Commonwealth Secretary's Statements

In an interview with the BBC given after a meeting of the twelve member states of the European Community on 21 November 1988, the Foreign and Commonwealth Secretary, Sir Geoffrey Howe, said that
the PNC had made positive statements in recognising Resolutions 242 and 338, renouncing terrorism and seeking an international peace conference, and the Community wished to encourage further progress on the basis of these statements. It was important, too, to encourage more than a matching response from the Israeli Government. Sir Geoffrey said that the Palestinians had only acknowledged Israel's right to exist by implication, and the Government would like to see this recognised more explicitly. But progress had been made, and now it was necessary for both sides to carry the peace process forward. Speaking on the same day at a press conference, Sir Geoffrey said that the Government felt that the PNC's declaration of an independent Palestinian state was premature and would not give rise to any diplomatic recognition.

In a statement in Riyadh, Saudi Arabia, on 4 January, Sir Geoffrey welcomed the decisions of the PNC, the statements by Mr Abu Sharif at his meeting with Mr Waldegrave on 9 December, and above all Mr Arafat's statements in Stockholm and Geneva in December which had permitted the United States to begin discussions with the PLO. Sir Geoffrey made clear that Britain respected Israel's wish to live within secure borders and at peace with its neighbours, but warned that this could not be achieved on the basis of the status quo: 'It will only come through negotiation with the other side. The people of Israel should take care not to miss the opportunity which now presents itself.' It was time for them to acknowledge that a significant and positive move had been made that required a constructive response. It was vital that the Palestinians sustained their present course and continued to demonstrate their commitment to peace. The Israelis, for their part, had to be ready to explore Palestinian intentions rather than denounce them and demonstrate their own good faith by reaffirming their acceptance of Security Council Resolution 242 and the principle of exchanging territory for peace, which was as valid today as it had been in 1967.

Minister of State's Statement

In an interview with BBC radio on 14 January the Minister of State at the Foreign and Commonwealth Office, Mr Waldegrave, said that while, clearly, there must be a separate state of Israel with its own secure boundaries, the Palestinians must be allowed to choose their own form of self-determination, which would probably be some kind of confederation with Jordan. The Palestinians – backed by the great majority of Arab states – had shifted to a far more moderate stance, and the uprising in the Occupied Territories[1] had now produced a degree of solidarity among ordinary Palestinians that the Israelis could not ignore.

[1]Major civil disturbances in the Occupied Territories of the Gaza Strip and West Bank, which began in December 1987 (see pp 14-15, 1988), have led to the death of over 330 Palestinians and 11 Israelis.

Mr Waldegrave pointed out that many of the founding fathers of Israel, including the present Prime Minister of Israel, Mr Yitzhak Shamir, had once been involved in what Britain described at the time as terrorism; but they had moved away from this 'towards the institutions of peace', and so they should have the confidence to believe that there were people on the Palestinian side who could take the same courageous step. Britain believed that this fundamental shift was now taking place, and it was for Israel to respond.

At the meeting in Tunis, Mr Waldegrave said, he had discussed with Mr Arafat how to maintain the new momentum for peace that the PLO had started, the possible role of the United Nations in this, and the development of a Palestinian negotiating team and agenda. Obviously nobody could compel the Israelis, but it would help to build confidence if practical preparations could be made towards the ultimate aim of an international conference. Mr Waldegrave said that there was now an open channel of communication between the Government and the PLO, and it was practical work towards peace that was needed now.

European Community Statements

In a statement issued at Brussels on 21 November, the twelve member states of the European Community welcomed the PNC's acceptance of UN Security Resolutions 242 and 338 as a basis for an international conference, expressed their satisfaction that the Council had explicitly condemned terrorism, and appealed to all parties concerned, while abstaining from any act of violence and any action which could further aggravate the tense situation in the region, to 'contribute to the peace process in a positive way with a view to a just, global and lasting solution to the Arab-Israeli conflict'. This could only be achieved through an international peace conference, under the auspices of the United Nations. The Twelve reiterated their commitment to participate actively in all efforts contributing to a negotiated solution.

In a further statement issued at Athens on 16 December, the Twelve welcomed the decision of the United States Government to initiate a dialogue with the PLO as a positive contribution to the peace process and one which should lead to the convening of an international peace conference.

LIBYA

Britain has expressed its concern at recent reports that Libya is developing a factory for the production of chemical weapons. In a separate incident two Libyan aircraft have been shot down over the Mediterranean by fighters of the US Navy.

Chemical Weapons

The United States has alleged that Libya is building a factory at Rabta near Tripoli to produce chemical weapons. This has been denied by the Libyan Government, which claims that the factory is to make pharmaceutical products.

Foreign and Commonwealth Secretary's Statements

Speaking in Riyadh on 4 January, the Foreign and Commonwealth Secretary, Sir Geoffrey Howe,

described chemical weapons as 'a unique horror' and expressed Britain's particular concern that other countries were developing the capacity to manufacture them. Britain's aim, he said, was to secure, through the Geneva talks, a complete ban on the production, stockpiling and use of all chemical weapons. Britain had taken a series of initiatives to this end, most recently at last year's UN Special Session on Disarmament and in the Security Council (see pp 297-9, 1988), and fully supported the Paris conference (see pp 10-12).

At a press conference in Abu Dhabi on 5 January, Sir Geoffrey stated that Britain had independent information about Libya's chemical weapons programme which left no doubt that the plant at Rabta was intended for the production of chemical weapons.

US-Libyan Incident

On 4 January two Libyan MiG-23 aircraft were shot down over the Mediterranean by two F-14 fighters from the US Navy's aircraft carrier USS *John F Kennedy*. The United States Government has stated that the action was taken in self-defence and only after its planes had taken evasive measures designed to avoid combat; the Libyan authorities have maintained that their aircraft were unarmed and on a routine reconnaissance patrol.

Britain's View

Speaking at a news conference in Muscat (Oman) on 7 January, Sir Geoffrey Howe said he thought the incident had been explained by the United States and that Britain regarded the matter as closed. On 11 January Britain, France and the United States vetoed a resolution put to the UN Security Council deploring the shooting down of the two Libyan jets and calling on the United States to suspend its military manoeuvres off the Libyan coast in order to contribute to the reduction of tension in the area. Explaining Britain's decision, the British Representative at the United Nations, Sir Crispin Tickell, said that though Britain regretted that the incident had taken place, the conclusions which had been drawn from it were not justified by the facts. The Government believed that it was important to uphold the freedom of ships and aircraft to operate in international waters and airspace, and their inherent right to self-defence.

British Relief Aid to the Soviet Union

Britain gave an immediate £5 million in relief aid in an international response to help victims of an earthquake that struck the Soviet Union's Transcaucasian republics in early December 1988. In addition, British voluntary societies and the public made substantial contributions in the form of money, relief supplies, and emergency assistance.

The Earthquake

The earthquake which centred around the republic of Armenia in Soviet Transcaucasia on 7 December 1988 caused the deaths of at least 55,000 people and widespread devastation of towns and villages. Some 80 per cent of the buildings in Leninakan, a city with a population of 250,000, were destroyed, while Kirovakan which had a population of 150,000 also suffered heavily with many of its post-war buildings destroyed or seriously damaged. Most of Spitak (a town of 30,000 people) was totally destroyed, and in the countryside half of some 120 villages were flattened.

British Disaster Aid

Britain's assistance of an immediate £5 million, announced on 9 December, was the first aid Britain has given to the Soviet Union and is its largest initial response to a natural disaster.

Some £1·3 million, largely channelled through the British Red Cross, was used to fund 12 relief flights carrying medical supplies such as kidney machines, food, tents, earth-moving tractors and other relief supplies. Seventy rescue and medical staff were also sent, including a team of London firemen equipped with thermal imaging cameras which can detect buried people, medical experts from the South Manchester accident rescue team, and members of the International Rescue Corps (funded by the Young Men's Christian Association – YMCA) which had experience of earlier similar rescue work in Latin America in recent years. Some £113,500 was used to purchase and transport food parcels organised by the British charity, Care Britain.

Of the voluntary donations, more than £4 million was collected from individuals through the Moscow Narodny Bank in London, and £1 million from the Armenian community in Britain. At least £1·5 million was raised by the British Red Cross by 16 December, while nearly £1 million was collected by the YMCA's Y-Care International charity and through an appeal it co-ordinated with building societies around the country. Events to raise money for the Armenian earthquake victims included a 'Musicians for Armenia' concert featuring the Soviet cellist, Mr Mstislav Rostropovich, and his wife, the soprano Miss Galina Vishnevskaya, and a Covent Garden gala concert where dancers from the Bolshoi and Kirov ballets and singers from Moscow, Leningrad and Yerevan as well as British singers took part.

By the end of the third week in January the British response to the disaster, including the Government's aid of £5 million, had risen to over £13 million.

International Response

In the rescue effort involving cash, relief aid and assistance from many countries and international organisations (including a European Community contribution of $1·8 million), almost 110,000 people were evacuated from the area and were accommodated in cold-proof tents, holiday hotels and health resorts in Armenia and nearby regions. By the end of December, the search-and-rescue stage of the relief operation was completed and most of the international aid teams working in the disaster zone were able to withdraw. Subsequent aid has been channelled towards reconstruction and rehabilitation. A British Government mission is in the Soviet

Union discussing the contribution Britain can make to the longer-term rehabilitation of the region, the construction of schools and health facilities and the potential role of British firms in industrial and infrastructural regeneration.

Shorter Note

UN CONVENTION ON DRUG TRAFFICKING

A new UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was approved in Vienna on 20 December 1988. Britain is one of 43 countries that have signed the convention subject to ratification. The convention requires signatories to introduce legislation making all aspects of illicit trafficking in drugs, including the laundering of profits from these activities, criminal offences; and it enables the tracing, freezing and confiscation of drug traffickers' assets. Other measures deal with the extradition of drug traffickers, mutual legal assistance and other forms of co-operation and training in tackling drug trafficking.

Commenting on the signing, the Home Secretary, Mr Douglas Hurd, said the new convention was the culmination of four years of sustained work to which Britain had consistently given its full support. Britain already had legislation in place – the Drug Trafficking Offences Act (see pp 251-2, 1986) – that would allow it to fulfil its commitment in this latest initiative in the fight against drugs.

In an immediate step to give effect to the convention, Britain and Malaysia announced on the same day their intention to sign a reciprocal agreement to trace, freeze and confiscate the proceeds of drug trafficking and the assets of drug traffickers. The agreement is due to be signed in 1989. Britain has already signed such agreements with the United States (see pp 79-80, 1988), Australia, the Bahamas and Canada, and is holding discussions with a dozen other countries.

Source: Home Office press notice, 20.12.88.

Privatisation of the Electricity Supply Industry

The Electricity Bill, which provides for the restructuring and offer for sale of the electricity supply industry in England and Wales and in Scotland, has received its second reading in the House of Commons.

Introduction

The present structures of the electricity supply industry in England and Wales and in Scotland; the principles underlying the Bill; and government plans for the future of the industry were set out in the White Papers published in February and March 1988 (see pp 112-18, 1988; this article has been offprinted as COI reference paper *Privatisation of the Electricity Supply Industry,* No 309/88). In July 1988 the Government announced that consideration of ways of privatising the electricity supply industry in Northern Ireland would be put in hand immediately (see p 283, 1988).

The White Paper for England and Wales, *Privatising Electricity,* set out six guiding principles for the industry's future:

1 Decisions about the supply of electricity should be driven by the needs of the customer.

2 Competition was the best guarantee of the customer's interest.

3 Regulation should be designed to promote competition, oversee prices and protect the customer's interests in areas where natural monopolies will remain.

4 Security and safety of supply must be maintained.

5 Customers should be given new rights, not just safeguards.

6 All who worked in the industry should be offered a direct stake in their future, new career opportunities and the freedom to manage their commercial affairs without interference from government.

To give effect to these principles, the future structure of the industry in England and Wales envisaged in the Bill would comprise:

1 a substantial new generating company, Power Gen, formed from some 30 per cent of the Central Electricity Generating Board's (CEGB) existing capacity, all of it non-nuclear;

2 a second generating company, National Power, owning the remaining power stations, including the nuclear stations;

3 other existing and potential private generators, which would generally contract with the distribution companies, the grid company, or large customers;

4 a separate grid company, owned by the distribution companies, which would operate and own the 275 kV and 400 kV super-grid transmission system, the CEGB's interests in the interconnectors with Scotland and France, and the pumped storage stations at Dinorwig and Ffestiniog (Gwynedd);

5 twelve distribution companies, based on the existing area boards, which would also have the right to generate where this does not create local monopolies in electricity production and supply.

Each of the 12 distribution companies would have the obligation to supply in its area. The national grid would be maintained and would retain its central role in scheduling and directing the use of power stations. The CEGB's effective monopoly of electricity generation and its obligation to provide bulk supplies of electricity would be ended. An effective system of regulation would be put in place to ensure fair competition, to oversee prices, and to see that the privatised industry met its obligations.

The Government's proposed structure for the privatised Scottish industry includes two vertically integrated, regionally based companies, one based on the South of Scotland Electricity Board (SSEB), the other on the North of Scotland Hydro-Electric Board (NSHEB). A nuclear company, wholly owned by the SSEB and NSHEB, would also be created.

ELECTRICITY BILL

The Bill was given its second reading in the House of Commons on 12-13 December 1988 by 304 votes to 238 (*Hansard,* Vol 143, Nos 15 and 16, cols 677-752 and 795-871).

Regulatory System

Part I of the Bill gives the legal framework for electricity supply after the restructuring of the industry, including the establishment of the regulatory system, arrangements for consumer protection and other matters of public interest. Clause 1 provides for the appointment of the Director General of Electricity Supply, who would head an Office of Electricity Regulation. The Director General would have responsibility for establishing consumers' committees (each with a chairman and between ten and 20 other members) for the protection and promotion of consumer interests, in each of the areas of the public electricity suppliers (see below). The Director General would have to operate in a way best calculated to achieve competition in the supply

and generation of electricity, to secure that all reasonable demands for electricity were satisfied, and to promote customers' interests.

Licences

Clauses 4 to 14 set out the procedures for the granting of licences, by the Secretary of State or the Director General, for supplying, generating and transmitting electricity. Clause 4 prohibits any person from generating, transmitting or supplying without a licence, while clause 8 places a duty on the holder of a transmission licence [in England and Wales the national grid company; in Scotland, the Scottish companies] to develop and maintain an efficient, co-ordinated and economical system of electricity transmission, and to facilitate competition in the generation and supply of electricity. One type of supply licence (a 'first-tier' licence) would oblige suppliers – known as public electricity suppliers (at first the area boards' successor companies) – to supply all customers within their area on request and would include conditions, such as requiring the licence holder to enter into agreements for the use of electric lines and electrical plant by private electricity suppliers (holders of a 'second tier' licence allowing them to supply specific premises), so that any premises may receive a supply.

Clauses 10-14 refer to the modification of licences by the Director General, for example, by reference to the Monopolies and Mergers Commission, should a licence operate against the national interest. Clauses 23-26 relate to the Director General's powers in the enforcement of licence conditions.

Public Electricity Suppliers

In future every owner or occupier of premises would have the right to require a public electricity supplier to provide a supply [no longer limited to premises within 50 yards (46 metres) of a main] and the supplier would be able to recover the reasonable costs of any necessary work, although this duty would not apply if premises were being supplied by a private supplier (clauses 15-18). They would be required to charge for supplies on the basis of fixed published tariffs, without preference or discrimination. Clause 20 would allow supplier and consumer to draw up special agreements concerning the terms of a supply. Should any dispute arise over the reasonableness of terms offered or charges required by a public electricity supplier, then either party would have the right to ask the Director General to determine the dispute. Clause 22 gives effect to a public electricity supply code, which would give public electricity suppliers safeguards to cover their obligations and consumers corresponding safeguards to protect their interests.

Clauses 27-28 enable the Secretary of State to make regulations concerning safety and to appoint electrical inspectors.

Public Interest and Consumer Protection

The Secretary of State would require each public electricity supplier to have available for use a certain minimum amount of non-fossil-fuelled generating capacity. If licensees in England and Wales should fail to submit plans to the Director General to show that they are prepared for this obligation, if their plans should be inadequate, or if they should fail to meet the obligation, they could be fined. The Secretary of State would be able to establish a scheme for imposing a levy on private electricity suppliers towards any increased costs incurred by public electricity suppliers in meeting the non-fossil fuel obligation (clauses 30-31). Under clause 32 the Secretary of State would have powers to specify levels of fuel stocks at generating stations. No generating station of over 50 MW capacity should be constructed, extended or operated without the consent of the Secretary of State, nor should overhead lines be erected without such consent (clauses 33-34).

By clause 36 the Director General would prescribe standards of performance for individual public electricity suppliers and fix levels of compensation should they not be met, and by clause 37 he would be enabled to set standards of overall performance. Clause 38 would place a duty on the Director General to collect and publish information relating to the compensation and levels of overall performance. Clauses 39 and 40 would enable the Director General to exercise some of the functions of the Director General of Fair Trading and to set the maximum price at which electricity supplied to a consumer's premises by any supplier may be resold.

The Director General's other duties would include keeping under review and collecting information on generation, transmission and supply, and publishing information and advice to consumers. Consumers' committees would refer to the Director General matters relating to electricity suppliers and investigate such matters; keep matters affecting customers' interests under review; or make reports to the Director General. Under clause 49 the present area consultative councils and electricity councils would be abolished.

Successor Companies

Part II of the Bill provides for the transfer and division of the industry's property, rights and liabilities to successor companies. Clause 59 provides for the undertakings of the existing area boards in England and Wales to be directly vested in 12 public electricity suppliers nominated by the Secretary of State. Under clause 60 the CEGB would draw up a scheme for the division of its undertaking into three or more parts, two being designated as generating companies and one as the transmission company, and the Electricity Council would arrange for the transfer of its undertaking. Clause 61 provides for the two Scottish boards to draw up schemes for the transfer of their undertakings to three companies – the boards' successor companies and the Scottish nuclear company. The respective Secretary of State would have to approve the CEGB's, the Electricity Council's and the Scottish boards' schemes, and would be able to modify them or replace them with schemes of his own (clause 62).

Financial Provisions

The Government would make the necessary preparations for the offers for sale of the successor companies to the public. These would permit the Secretary of State after the transfer date to acquire

and dispose of securities in the successor companies, to prescribe the level of the government shareholding in an operating company after a sale of shares, and to establish financial structures for the operating companies appropriate for the private sector.

After the transfer date the area boards, the CEGB and the Electricity Council would remain in existence as residuary bodies to deal with any remaining responsibilities. Once these had been dealt with, they would be dissolved.

Other Provisions

Clause 88 and Schedule 12 allow for government loans, grants and guarantees for the reprocessing and storage of nuclear fuel, the treatment, storage and disposal of radioactive waste, and the decommissioning of nuclear installations.

Clause 90 would bring electricity within the system for the control of monopoly and anti-competitive practices set up by the Fair Trading Act 1973 (see pp 41-2, 1973) and the Competition Act 1980 (see pp 340-1, 1979); and within the scope of the Restrictive Trade Practices Act 1976 (see p 380, 1976). There is provision for specific agreements or classes of agreement to be exempted from the requirements of the 1976 Act. Clause 92 gives effect to Schedule 13, which enables local authorities in Scotland to produce and supply heat or electricity by combined heat and power schemes (see p 172, 1980).

PARLIAMENTARY DEBATE

Government View

Opening the debate in the House of Commons on 13 December, the Secretary of State for Energy, Mr Cecil Parkinson, said that there had been insufficient pressure on costs, efficiency and prices in the electricity supply industry, which, with the encouragement of governments, had overinvested in plant that had not been needed. By restructuring it and returning it to the private sector, efficiency would improve, competition would be promoted and customers would get a better deal. The Government's proposals would move key decisions from a remote monopoly producer towards the customer and the supplier. Suppliers would have an incentive to seek the cheapest sources of supply from a variety of generators, and private generators would benefit from access to transmission on the same terms as anyone else. The integrity of the national grid and diversity of supply would maintain security of supply. Mr Parkinson denied that he was taking excess regulatory powers, and said that regulation would help to promote competition, to protect customers against exploitation, to plan for emergencies and interruptions in supply, to meet specified standards of service and to observe safety standards.

The Secretary of State then described how the six principles set out in the White Paper (see p 16) would be served by the Bill.

1 Suppliers would be able to contract for electricity from a range of sources, customers would have the right to contract directly with the generators of their choice, and public electricity suppliers and the national grid company would be obliged to offer fair terms for carrying electricity generated. Such provisions would exert downward pressure on costs by enabling decisions about supply to be driven by customer needs.

2 Competition would be promoted by the splitting of the CEGB into two generating companies: Power Gen, owning about 30 per cent of the CEGB's existing generating capacity, all of it non-nuclear, and National Power, owning the remainder. The national grid would be transferred to the joint ownership of the public electricity suppliers. A new opportunity would exist for independent power generators. Nearly 20 projects were known to the Government and would amount to more than 10 per cent of national needs.

3 Regulation would ensure competition by requiring the public electricity suppliers to contract with the most competitive generators; by penalising them through price control should they contract inefficiently; by requiring the public electricity suppliers and the national grid company to allow others to use their networks; by preventing the public electricity suppliers and the two large generators from stifling competition; and by giving rights to independent generators and suppliers, thus putting them on an equal footing with the CEGB's successors and the public electricity suppliers.

4 The integrity of the national grid would be preserved with a merit order system. The national grid company would have a statutory duty to develop and maintain an efficient, co-ordinated and economical system of transmission. Security of supply was best based on diversity of sources, and nuclear power, which would increasingly be seen as the least polluting major source of electricity, was a vital part of that diversity. To encourage diversity of supply, a statutory obligation would be placed on each public electricity supplier to buy a minimum amount of non-fossil-fuelled generating capacity – including renewables.

5 The setting of standards for public electricity suppliers when supplying electricity to domestic premises and in their overall performance would give customers new rights.

6 The industry's employees would be transferred to the successor companies and their rights and terms and conditions of employment would be safeguarded.

In answer to assertions that the Government's proposals involved a 'nuclear tax', Mr Parkinson said that the consumer would pay no increased costs beyond those he or she would have paid under the existing structure. 'Our proposals will simply identify costs which had previously remained hidden. The fact that these costs will be identified does not mean that there will be an increase.'

In outlining the elements in the Bill distinctive to Scotland, the Secretary of State for Scotland, Mr Malcolm Rifkind, mentioned that country's diversity of resources (including oil, hydro, coal and nuclear); its surplus capacity, which offered substantial opportunities, through the development of the interconnector [the Scottish grid is linked to the English at two points; see p 116, 1988], for export; and its substantial nuclear capacity. To divide generation from transmission and distribution would be inappropriate for Scotland, he continued, because

of its small market and because a proportion of hydropower was only distributable to particular parts of the north of Scotland. 'For those reasons, plus Scotland's particular demography, we concluded that vertical integration made sense and should be continued.' Scotland's high nuclear capacity would make a non-fossil fuel obligation and its consequential levy (see p 17) unnecessary there for the foreseeable future.

Opposition Views

For the official Opposition, Mr Tony Blair asked why an industry 'brought together in the public interest over 100 years . . . must now in the same public interest be . . . broken up and sold in two years to serve the demands of private profit'. The modern electricity supply industry was not built on a foundation of success created by market forces, but had emerged from the days when excess capacity had been over 80 per cent and there had been widespread inefficiency, with hundreds of small suppliers and private and municipal generators.

Electricity in Great Britain, said Mr Blair, was among the cheapest in the world, and he doubted that privatisation could drive prices still lower. He did not see how there could be competition to supply future new capacity, when one-third of it would be nuclear and there was to be ring-fenced, protected status for the nuclear industry, and when public electricity suppliers were monopoly suppliers which built their own power stations. Customers would contract with monopolies, thus allowing for no competitive pressure at the point of consumption.

As far as the nuclear industry was concerned, he argued that a 'nuclear tax' was designed not to meet the costs of existing stations, but to build four new pressurised water reactors.

For the Social and Liberal Democrats, Mr Malcolm Bruce said that priority should be given to promoting energy conservation and to the environment, although he accepted that the electricity supply industry needed restructuring, having become 'over-centralised and monolithic'. It would be impossible to imagine, he said, how alternative technologies could develop in Scotland where there was substantial over-capacity, particularly in nuclear power.

For the Social Democratic Party, Dr David Owen said that there should be a separate nuclear generation company for England and Wales, which would enable nuclear costs to be easily identified. There was a public interest in transmission, and he would have preferred the company to be publicly held.

Government Reply

Speaking at the end of the debate, Mr Michael Spicer, Parliamentary Under-Secretary of State at the Department of Energy, disputed the Opposition claim that there would be no competitive pressure at the point of production and said that three-quarters of costs would be subject to the force of competition. Because 'perfect competition' could not be possible, that did not mean that the alternative was no competition at all. The future huge investment programme would have to be paid for, but whereas under the present system 'the bills . . . can be shared only between the consumer and the taxpayer . . . in future, the shareholder will join in the risk'.

Mr Spicer added that there would be arrangements to safeguard the independence of the public electricity suppliers, National Power, Power Gen, the national grid company and the two Scottish companies. Individuals and companies would be restricted from building up a shareholding of more than 15 per cent – reinforced by a special share to be held by the Government. The industry would certainly be expected to continue fully to prepare for all foreseen nuclear decommissioning, reprocessing and waste management – which it did at present for England and Wales at a cost of between £2,000 million and £3,000 million. The consumer, he stressed, would pay 'on a transparent basis' for the benefits of diversity which nuclear energy provided, not on the basis of accounts which confused nuclear and other fuel sources. The nuclear energy industry's high safety standards would remain unchanged after privatisation, when nuclear safety would continue to be monitored by the Nuclear Installations Inspectorate.

DRAFT LICENCES

England and Wales

On 10 January Mr Spicer announced in the House of Commons (*Hansard*, Vol 144, No 25, cols 579-80) that drafts of the licences under which the industry would operate after privatisation had been published. They were of four types: for public electricity suppliers; for second-tier suppliers, who may be licensed to supply specific premises or types of premises; for generators – National Power, Power Gen, and independent generators; and for the national grid company.

The licences for the public electricity suppliers and the grid company specify maximum charges and provide for third parties to have access to the transmission or distribution systems of all licensees. All licences contain conditions relating to technical and operating standards, security of fuel supply and employee health and safety. All except the licences for second-tier suppliers and independent generators prohibit cross-subsidy or discrimination, and the public electricity supply licence stresses consumer relations and standards of service. Licensees would be required to provide information to the Director General of Electricity Supply and to pay fees to cover regulatory costs.

Scotland

In another statement in the House of Commons on the same day (*Hansard*, Vol 144, No 25, cols 554-5), Mr Ian Lang, Minister of State at the Scottish Office, outlined the draft model licence for the successor companies to the SSEB and NSHEB. This would be a composite document, allowing them to generate, transmit and supply electricity in accordance with their function as vertically integrated utilities. Its provisions are similar to those for England and Wales, but, as far as the NSHEB's successor is concerned, there is a condition requiring the maintenance of common tariffs in the authorised supply area.

Water Bill

The Water Bill, which received its second reading in the House of Commons on 8 December 1988, provides new powers for the protection of the water environment, and for the sale of the utility functions of the water authorities in England and Wales, the establishment of a National Rivers Authority and the appointment of a Director General of Water Services.

The Bill is based on proposals set out in the White Paper *Privatisation of the Water Authorities in England and Wales* (see pp 91-2, 1986) and in the policy and consultation paper *The National Rivers Authority* (see pp 271-3, 1987). The main purposes of the Bill are:

1 to establish a National Rivers Authority (NRA) responsible for the control of water pollution, water resource management, flood defence, fisheries and navigation;

2 to provide a new statutory framework for setting river quality objectives and other standards, and to set out effective means of enforcing these standards;

3 to transfer the utility functions of the water authorities to new limited companies, and to provide for the terms of their appointment, and for the sale of shares to the public towards the end of 1989 (see pp 278-9, 1988);

4 to provide for the appointment of the 29 statutory water companies to continue supplying water in their existing areas, and to allow them to convert to public limited company (plc; limited by shares and with a share capital) status if, with the support of their shareholders, they so choose;

5 to provide a clear legal framework for the duties, functions and powers of appointed companies, updating and amending water and sewerage law;

6 to provide for the appointment of a Director General of Water Services to keep the provision of water and sewerage services under review, and to protect the interests of customers.

The Government also intends to introduce some amendments relating to the protection of the water environment in Scotland, which will not change existing arrangements for the ownership and regulation of water supplies in Scotland.[1]

Background

The nine English regional water authorities and the Welsh Water Authority were set up under the Water Act 1973 on the principle that a single body should plan and control all uses of water in each river catchment.

The water authorities employ some 48,500 people; their revenue for 1988-89 is estimated at £3,095 million and their capital investment at £1,200 million. Over 99 per cent of the population of England and Wales is connected to a public water supply. The water authorities provide about 75 per cent and the remainder is supplied by the 29 water companies (see p 22). Over 95 per cent of the population is provided with main drainage. In 1986-87, 16,850 million litres of water a day were provided by the public water supply, while average daily provision per head was nearly 340 litres. A further 26,300 million litres a day were abstracted for non-domestic purposes, such as cooling in connection with electricity generation.

In general, river and estuary quality throughout Britain is high. In 1986-87, of some 40,000 km (25,000 miles) of rivers and canals in England and Wales, some 2 per cent (780 km – 490 miles) was classified as grossly polluted or not usable; about 9 per cent (3,640 km – 2,275 miles) was classified as having potential if cleaned up. Of the 2,640 km (1,650 miles) of estuaries, between 8 and 9 per cent was classified as poor or bad in 1986-87.

[1]For further information see COI reference paper *Water Supply in Britain*, No 135/87.

MAIN PROVISIONS

Framework of the Water Supply Industry

Part I of the Bill provides for the new bodies which would be responsible for the functions at present carried out by water authorities, the establishment of the NRA and the appointment of a Director General of Water Services. The eight to 15 members of the NRA are to be appointed by the Secretaries of State for the Environment and for Wales and the Minister of Agriculture, Fisheries and Food. Part I also requires the NRA to establish regional rivers advisory committees and customer service committees. In addition, it provides for the transfer, on a date to be determined by both Secretaries of State, of the functions of the ten water authorities in England and Wales either to the NRA or to successor limited companies owned by the Crown and appointed for their areas as water or sewerage undertakers. The property, rights and liabilities of the water authorities would be divided between the successor companies and the NRA in accordance with schemes prepared by the water authorities and approved by the respective Secretary of State.

The Secretaries of State and the Director General are required to ensure that appointed companies are able to finance their functions. The NRA would also receive government grant as a contribution towards expenses (in the first full year calculated at £71 million, out of an estimated total expenditure of £290 million) and the Minister of Agriculture, Fisheries and Food would provide grants for flood defence and land drainage, expected to be £20 million a year by 1990-91.

Water Supply and Sewerage Services

Part II of the Bill sets up the mechanisms to ensure the proper provision of water supply and sewerage services.

Regulation of Water and Sewerage Undertakers

The Secretaries of State would have to ensure that at all times there were water and sewerage undertakers appointed for every part of England and Wales. After privatisation the Director General of Water Services would regulate the activities of water and sewerage undertakers and would be required to keep the activities connected with their functions under review, and to advise and assist the respective Secretary of State and the Director General of Fair Trading. The customer service committees would be

required to investigate complaints by customers, would consult the undertakers on matters affecting customers' interests, and would refer complaints which they could not resolve to the Director General, who would then have to consider such complaints.

If a reference were to be made to the Monopolies and Mergers Commission which resulted in adverse effects being identified, the Director General of Water Services would be obliged to modify the conditions of an undertaker's appointment.

The Director General would be required to publish information and advice for the benefit of customers. He or she would also maintain a public register of companies appointed as water and sewerage undertakers, and would have powers to obtain the information to carry out these functions effectively.

Water Supply

Every water undertaker would have a duty to develop and maintain a water supply system within its area. Regulations may also prescribe individual standards of performance in relations between company and customer. If these standards were not met, the undertaker would compensate those affected.

Duties to Serve Premises

Undertakers would be obliged to comply within three months with any request to provide a main to supply water sufficient for domestic purposes, provided that certain financial conditions were met. They would also have to connect any premises within their area to a water main at the expense of the owner or occupier of those premises. They may also stipulate that a meter be fitted at the developer's expense as a condition of making the connection. In addition, they would be bound to provide water to premises for domestic purposes and to keep a connection between their main and the service pipe to the premises.

Water undertakers would also be bound to provide a supply of water for non-domestic purposes, provided that domestic supply obligations were not prejudiced. The Director General could act as arbitrator if the terms and conditions for the provision of such a supply could not be agreed.

Water undertakers would also have a duty to supply water from certain mains for other public purposes, a duty enforceable by the Secretaries of State or the Director General. A supply may be cut off to any premises in certain circumstances, but an undertaker withdrawing a supply without statutory authority would be committing a criminal offence. Should a supply be cut off to carry out works, the undertaker would be liable to consumers for loss or damage if the works were not carried out with reasonable dispatch.

Water Supply Quality

Water undertakers would be required to supply for domestic purposes only water which was wholesome. Standards of wholesomeness may be defined in regulations by the respective Secretary of State, who may take enforcement action to secure compliance; these would include powers to specify minimum requirements for the monitoring and recording of water quality; to forbid the use of proscribed substances, processes and products which might affect water quality; and to require provision of information to the public about its quality. The supplying of water unfit for human consumption would normally be an offence.

Local authorities would have a general duty to monitor water supplies in their areas and to serve notice on the water undertaker if the public supply should be unwholesome or insufficient. They may require action to be taken to improve the quality and sufficiency of private supplies. There would be an appeal procedure to the Secretary of State against any action by a local authority in relation to private supplies.

The Secretary of State would be able to appoint technical assessors to investigate drinking water quality and private supplies, and to advise whether any duty imposed on a water undertaker in relation to water quality might have been contravened.

Sewerage Duties

Every sewerage undertaker would have a general duty to provide and maintain a system of sewers and sewage disposal within its area. The respective Secretary of State would be empowered to make regulations concerning breaches of service obligations, and enforcement action would be taken by the Secretary of State or the Director General to secure compliance. Regulations would also prescribe individual standards of performance and payments would be made by the undertaker to those affected should these not be met. Undertakers would need to comply within six months with any request to provide a public sewer for domestic premises, provided that certain financial conditions were met. Undertakers would be permitted to enter into agreements whereby local authorities would perform certain sewerage functions on their behalf, and existing sewerage agency agreements would continue until reasonable notice should be given by either party. Such notice may not take effect before 1 April 1992.

Charges for Services

Water and sewerage undertakers would fix charges for services either by an individual agreement with a customer or by a charges scheme. The Director General would have to ensure that customers were protected against unjustified price increases and, by means of the licence issued to undertakers, that there would be no undue discrimination between classes of customer.

Water undertakers would continue to have powers of entry to install, maintain, test and read meters, and it would be an offence to tamper with them. Undertakers would generally be required to meet the cost of installing meters. The Secretary of State would continue to be responsible for approving amendments to, and monitoring, meter trial schemes.

Ownership and Finance of Successor Companies

A corporate structure would be established, which would at first consist of the appointed successor company for each water authority and the holding company placed over it. The latter would be able to set up subsidiary companies and transfer the appropriate assets to them.

The capital structure may be adjusted by the issue of shares and debentures, and government financial assistance may be given to the group companies, as they would be in the public sector until sold off. As with previous privatisations, the Government would be prevented from buying back shares. Other measures are designed to put the holding companies on fair terms with each other and with other companies as far as tax and accounting provisions are concerned, and to facilitate joint listing of the holding companies so that they could be offered for sale separately or as a package.

Statutory Water Companies

The 29 statutory water companies [private companies – prohibited from offering their shares to the public – mostly dating from the mid-nineteenth century, at present restricted to abstracting, purifying and supplying water on behalf of the water authorities in whose areas they are situated, and whose activities and finances are closely controlled by their own Acts and Orders] would have the powers to operate as water undertakers in their own right. The Bill would enable companies to become plc's if they wished to do so. Should a company decide to convert to plc status, it could become a sewerage undertaker either by agreement with the current undertakers or on sites where no service existed. Current restrictions on the companies' finances and on the methods by which they can issue shares would be removed or relaxed.

Protection and Management of Rivers and Other Waters

Part III of the Bill establishes how rivers and other waters are to be protected and managed.

Control of Pollution

The clauses relating to pollution control largely replace Part II of the Control of Pollution Act 1974 (see pp 282-5, 1974). A principal function of the NRA would be to maintain and enhance the quality of inland, coastal and underground waters. The Secretaries of State and the NRA would be given a statutory duty to take all practicable steps to achieve water quality objectives set by the Secretaries of State by reference to a system of classifying the quality of controlled waters.

The NRA would be the agency for pollution control, regulating all polluting discharges to water through a consent system whereby certain discharges or entries of matter into water are exempt from the scope of an offence. The NRA would be able to levy charges in respect of consents. Polluting controlled waters would continue to be an offence, as would discharging effluent in breach of a prohibition. It would also be an offence to interfere with river beds without the permission of the NRA. Other powers would provide for the establishment, where necessary, of water protection zones (see p 23), for precautions to be taken to prevent pollution and for by-laws to prevent the pollution of controlled waters. Where pollution had taken place, or was likely, the NRA would be able to carry out emergency works to clean up or prevent such pollution, and recover its costs from the polluter. There would also be a new code of practice, prepared by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, to help farmers to avoid causing pollution.

Information on matters such as water quality objectives, discharge consents and water samples would be kept by the NRA on public registers.

Water Resources

The NRA would have a duty to safeguard water resources for public water supply and all other uses, partly by arrangements with water undertakers to provide for the proper operation of those of their reservoirs which control the flow of rivers. These agreements would correspond with the NRA's duty to safeguard minimum acceptable river flows. Water authorities' existing responsibilities for the licensing of abstractions would be taken over by the NRA. [Such licences enable industry, agriculture and other users, as well as water undertakers, to take water from controlled rivers and lakes, and from underground sources.] The NRA and undertakers would be required to make public information about water flows, levels or volume.

Drought

Clauses relating to drought largely re-enact the provisions of the Drought Act 1976 (see pp 359-60, 1976), which apply when there is a serious deficiency in water supplies, and provide for the respective Secretary of State to make general and emergency drought orders on the application of the NRA or of a water undertaker.

Flood Defence

Water authorities' present responsibilities for land drainage and flood protection would pass to the NRA, which would supervise all matters concerning land drainage and flood defence in England and Wales. It would also have powers to carry out works on designated main rivers and sea defences, and would discharge its responsibilities through regional flood defence committees. Existing internal drainage districts and internal drainage boards would continue.

Other Provisions

The NRA, assisted by regional freshwater advisory committees, to be established in each of its regions, would be required to maintain, improve and develop salmon, trout, freshwater and eel fisheries. It would be required to promote, whenever desirable, conservation, amenity and recreation on inland waters and land associated with them, and to have regard to the protection of buildings of archaeological, architectural or historic interest. The respective Secretary of State may also require the NRA to provide recreational facilities when constructing or improving reservoirs with the benefit of compulsory powers.

The NRA would have a duty to carry out research and to publish information about water resource planning. With the respective Secretary of State's consent, it could make its expertise available overseas.

PARLIAMENTARY DEBATE

The Bill was given its second reading in the House of Commons on 7 and 8 December 1988 by 301 votes to 241 (*Hansard*, Vol 143, Nos 12 and 13, cols 336-406 and 458-526).

Government View

Opening the debate, the Secretary of State for the Environment, Mr Nicholas Ridley, stressed the distinction between the utility services of the water authorities – trading activities that could be better managed in the private sector – and the need to regulate in the public interest, which should not be done by those with a financial stake in the matters to be regulated. Those responsible for treating and disposing of sewage effluent should not also have to regulate pollution and prosecute their own customers. 'The NRA', he said, 'will be a strong and effective body, comprehensively equipped to regulate all discharges to rivers, estuaries and coastal seas up to three miles out. It will be able to set up water protection zones to protect water sources in designated areas from pollution by such substances as nitrates and pesticides. . . . On the polluter pays principle, it will be able to charge for discharge consents and to recover the costs of dealing with pollution incidents.'

Explaining the Government's convictions why privatisation was right for the industry, Mr Ridley pointed to:

1 the example of the statutory water companies which had been in private ownership for a long time and had been subject to few complaints;

2 the need for people to feel that they had a local water company, with those running it living and working locally; a number of such independent companies would enable people to compare services ('comparative competition');

3 the need to give the new bodies, like some of their counterparts overseas, scope for innovation and diversification into various commercial undertakings, and to compete in the world market;

4 the importance of access to capital markets, in order to raise finance for investment in higher standards; government investment in the water industry, Mr Ridley added, was planned to rise to £1,430 million in 1989-90, an increase of 20 per cent compared to 1988-89, and the privatised industry would need to sustain and build on these levels of investment.

The Secretary of State detailed three main programmes for environmental improvement. First, water authorities' plans for the next four years (costing between £900 million and £1,000 million) would bring almost all sewage treatment works into full compliance with their consent limits by 1992 [the date for completion of the single European market]. Secondly, the industry was spending £70 million a year on improving bathing waters within the scope of the European Community directive (see p 71, 1987) – at an estimated cost of over £1,000 million up to 1995. Thirdly, the Bill provided a strengthened legal framework for setting drinking water quality standards, which would be exactly set down for the first time in Britain. Additional expenditure on drinking water quality over the next 15 years would be some £1,500 million.

The water companies' core activities would be regulated, the Secretary of State concluded, and 'their ability to pay a reasonable return will depend on their efficiency. The regulator will not ensure rewards for any inefficient company.' Although the environmental improvements represented extra cost, they were good value for the customer, who would be compensated by the possible lower cost of finance and 'the greater efficiency which we expect private ownership to deliver'. In addition, he or she would benefit from higher standards of service.

In his speech, the Minister of State for Wales, Mr Wyn Roberts, said that the impact of NRA policies would be especially strong in its regions, based on the boundaries of the present water authorities; one region would cover the present area of the Welsh authority. Much land now held by the Welsh authority, he continued, was in national parks or in environmentally sensitive areas (see p 300, 1986, and p 419, 1987). Such sites would continue to be subject to stringent planning controls.

Opposition Views

For the official Opposition, its chief spokesman on the environment, Dr John Cunningham, said that water was the people's most fundamental resource, on which health and wellbeing depended, and these were not matters to be dealt with by market forces. People would have no choice about where they must buy their water, some 99 per cent of households would be connected to private monopoly suppliers and the Bill set out to create the most far-reaching monopoly powers ever conceived by a government. As far as the environment was concerned, Dr Cunningham wondered what would happen to an estimated 500,000 acres [1 acre = 0·40469 hectares] of land owned by the present authorities, which was a public asset and was to be sold off. He saw the NRA as a means of taking away from the water authorities non-profit-making, environmentally necessary functions which, if they had remained with the authorities, would have deterred investors. He criticised the Government and the authorities for the small number of prosecutions compared with the number of pollution incidents in England and Wales in 1986 and claimed that the Government was relaxing consent conditions.

For the Social and Liberal Democrats, Mr Richard Livsey said that the water industry had always been regarded as a service, not an industry suitable for privatisation. He hoped that the Government would retain a golden share in plc's, to prevent them from being sold off to overseas investors. He did not think that £2,400 million would be enough to renew the water supply and sewerage infrastructures. For the Social Democratic Party, Mr John Cartwright doubted the value of comparative competition and said that customers would be tied to a private profit-making monopoly.

Government Reply

In his reply for the Government, Mr Michael Howard, Minister of State at the Department of the Environment, paid tribute to the long and distinguished history of the private water companies, which had never been taken into public ownership when opportunity offered. The Bill, he said, would contribute to the spread of share ownership and would free

water supply and sewerage from the constraints of competition for limited public sector resources. He announced a compensation scheme for automatic payments to domestic customers should guaranteed standards not be met: £5 for each day, or for each occasion, a breach occurred. Mr Howard referred to the substantial progress being made in improving the environment and said that Britain had the highest river quality standards in the European Community after the Irish Republic and possibly the Netherlands; that it was the only member of the Community to have drawn up a clear programme for securing compliance with the European Bathing Water Directive; and that more sewage in Britain was treated before disposal than in any other country in Europe.

MERGER POLICY

In a statement in the House of Commons on 11 January (*Hansard*, Vol 144, No 25, cols 841-51) Mr Ridley gave details of merger control provisions to be introduced as amendments to the Bill. These would apply to takeovers which would merge any successor limited company or statutory water company, whose assets exceeded £30 million, with any other such water company. In considering any bids, the Monopolies and Mergers Commission would have to take into account the undesirability of reducing the information that the Director General of Water Services would need to make comparative competition effective. The Bill would then enable the Commission to decline to approve a merger, and the Secretary of State for Trade and Industry to prevent or reverse it, solely because a successful bid would reduce the number of independent water companies. The Commission, however, would not be required to reach such a recommendation if it considered that public interest outweighed the loss of comparative competition.

'The need for comparative competition', Mr Ridley said, 'implies that, in order to stimulate efficient and effective management, the market must have the opportunity to bid for these companies, especially where performance is inadequate, subject to the restrictions ... to prevent undue concentration'. The Government had decided, however, to provide for a special share. Any takeover during its five-year period would require both the approval of shareholders and the written consent of the special shareholder – the territorial Secretary of State.

These proposals would have to be discussed with the European Commission, but he was confident that they would be acceptable to it.

Transport (Scotland) Bill

The Transport (Scotland) Bill, which provides for the disposal to the private sector of the operations of the Scottish Transport Group (with the exception of its shipping operations), has received its second reading in the House of Commons.

The Scottish Transport Group provides bus and ferry services in Scotland. Its main subsidiary, the Scottish Bus Group, employs about 9,000 people and operates some 3,000 buses, providing through its operational subsidiaries over half the local bus services in Scotland. The Group's other main component, Caledonian MacBrayne, provides essential ferry services around the west coast of Scotland, operating 28 vessels on 26 routes and employing about 800 people. To improve ferry services, the Government has approved £28 million of new investment since 1979. An annual subsidy (currently £6 million) is also provided, most ferry services not making a profit, though the subsidy has fallen in recent years.

Main Provisions

Clause 1 empowers the Secretary of State for Scotland to draw up, after consulting the Scottish Transport Group, a programme for the disposal of the Scottish Bus Group and minor subsidiaries to the private sector. The main objective in preparing the disposal programme, as set out in clause 2, will be to promote sustained and fair competition, while the net proceeds and the desirability of encouraging employee participation will also be taken into account.

Clause 7 provides for the transfer of ownership of Caledonian MacBrayne to the Secretary of State. The dissolution of the Group is provided for under clause 14 once it appears to the Secretary of State that the main elements of the disposal programme have been implemented and the shipping companies have been transferred.

Parliamentary Debate

The Bill received its second reading in the House of Commons on 14 December 1988 by 257 votes to 189 (*Hansard*, Vol 143, Nos 17-18, cols 974-1,050).

Government View

Introducing the Bill, the Secretary of State for Scotland, Mr Malcolm Rifkind, said that it would lead to 'a major change in the organisation of Scotland's public transport system'. Until recently the bus operators had faced a long-term decline in bus usage as car ownership had grown. However, the deregulation of the industry in 1986 (see pp 78-80, 1985) had resulted in an increase in the number of vehicle-miles operated; the emergence of new operators, with 40 new firms in Scotland running local services; and innovations in services, with more minibuses providing new services in housing estates.

The next step in making the industry more responsive to its customers, Mr Rifkind continued, was to privatise the Scottish Bus Group, which would create 11 new locally based companies where previously there had been only a single, dominant nationalised industry. In so doing, the Government had three important aims. First, there was the 'viable and sustained competition' which the creation of the new independent companies would bring. The second aim was 'local control and responsiveness to local needs' and the scale of the companies should allow them to be in close touch with their communities. Thirdly, the Government aimed to widen share ownership and increase

employee involvement, and he welcomed the widespread interest that had been shown by management and employees in buying their own bus companies. In deciding the bids to be accepted, the main test would be the promotion of sustained and fair competition, but other factors to be taken into account would be employee participation and price. The Bill reflected the Government's 'keenness to have management-employee buy-outs', provided that a proper price was paid.

Caledonian MacBrayne, Mr Rifkind explained, was not a straightforward case for privatisation. The first priority was to guarantee the 'lifeline' services it provided. Accordingly, after careful consideration he had decided that on the dissolution of the Scottish Transport Group the ownership of Caledonian MacBrayne would be transferred to the Secretary of State. He intended to appoint a new board which would contain persons with commercial expertise including some members with knowledge of the islands served and of their needs; this was vital to ensure the responsiveness of the company to its customers. He would also ask the new board to explore the possibility of transferring two routes to the private sector.

Opposition Views

For the Labour Party, Mr Brian Wilson expressed opposition to the privatisation proposals, for which he believed there was no demand from consumers or employees of the Scottish Bus Group. Scotland needed a comprehensive, integrated bus service, which could only be run with due regard for the social interest.

For the Social and Liberal Democrats, Mrs Ray Michie said that, if privatisation did occur, the management-employee buy-out option was 'the only way to ensure commitment and a standard of service'. She also expressed concern about the future of rural services and the integration of services which might be difficult to achieve with privatisation.

On behalf of the Scottish National Party, Mrs Margaret Ewing opposed the privatisation proposals, expressing concern that in the longer term takeovers of the operating companies might result in the elimination of competition. She was also concerned about employment, the impact on rural communities and safeguards on the proposed elements of competition, and she believed that the Bill contained insufficient guarantees.

The Egg Industry

The Government has taken measures to ensure improved hygienic standards of poultry and eggs in view of the problem caused by salmonella enteritidis linked to eggs. It has also announced stringent measures for the inspection of protein processing plants.

The egg industry in Britain is worth some £500 million a year at source and perhaps twice that at retail level. About 35,000 farmers depend in whole or in part on their earnings from eggs, and more than 3,000 egg-packing stations provide employment for at least 15,000 people. Outbreaks of food poisoning related to eggs increased in 1988, with over 50 cases recorded. About 30 million eggs are consumed daily in Britain.

Minister's Statements

In statements in the House of Commons on 16 and 19 December 1988 (*Hansard,* Vol 143, No 19, col 1,276, and Vol 144, No 20, cols 21-4), the Minister of Agriculture, Fisheries and Food, Mr John MacGregor, drew attention to the advice to the public issued in August 1988 by the Government's chief medical officer on the risks of infection from salmonella enteritidis caused by consumption of raw eggs or of home-made dishes containing raw eggs. The Ministry, he said, had acted immediately with the egg industry and codes of practice to apply to commercial and breeding flocks had been published. Recent uncertainty, however, had caused a sharp decline in egg sales. The Government was therefore introducing two measures to assist the egg industry: a payment to egg-packers for the destruction of surplus eggs for a period of four weeks from 21 December, and payments for up to 4 million hens – approximately 10 per cent of the laying flock – to be culled under the supervision of the Agriculture departments. The estimated maximum cost of these schemes would be £17 million in payments to the industry, and there would also be payments estimated at £2 million to contractors and local authorities. The Government was spending £1 million a year on salmonella research and a working party was considering the research so far.

Codes of Practice

The code issued by the Government on 5 December 1988 formalises many of the procedures already carried out by poultry producers and is recommended for use throughout the poultry industry. There is evidence, explains the code's introduction, that an increase in human food poisoning has been associated with the use of raw foodstuffs of animal origin in the preparation of food for human consumption. This could be overcome by applying good kitchen hygiene and thorough cooking and continuous refrigeration. Suitable hygiene measures should also be extended to the appropriate stages of poultry production. Purchasers of birds for breeding or for egg production for human consumption should ensure that birds are obtained from sources following the code of practice, and should themselves obtain and follow any necessary veterinary advice. Producers complying with the code should indicate that they have complied to prospective purchasers.

The code for commercial egg producers, announced on 9 December, is similar to that for poultry producers. Both emphasise the importance of hygiene in poultry houses and bacteriological monitoring of breeding flocks and poultry feed.

The Government has urged commercial egg producers to adopt the code without delay.

Further Government Measures

In a further statement in the House of Commons on 18 January (*Hansard,* Vol 145, No 30, written

answers, cols 214-15), Mr MacGregor announced further measures to combat salmonella:

1 a doubling of the rate of inspections of plants where animal protein feeds are processed, so that samples are to be taken annually from 20 days' production from each plant, instead of ten days', as previously;

2 a requirement that protein processors take samples from each day's production, have them tested at laboratories listed by the Ministry, and immediately inform it of positive results;

3 banning the supply of products from processing plants where salmonella is found, until action has been taken to ensure uncontaminated products;

4 a graded series of controls on imported animal protein, to reflect a supplier's previous record on contamination;

5 secondary legislation, following the code of practice for poultry producers, requiring breeding flocks and hatcheries to be registered, and breeders both to arrange regular bacteriological monitoring of birds and hatcheries and to supply the Ministry with veterinary certificates setting out the results of their monitoring – thus enabling it to restrict poultry and hatching egg sales where salmonella is found;

6 a requirement that commercial egg producers, in accordance with the code of practice, carry out regular bacteriological monitoring; strengthened statutory requirements for rodent control; and provision for compulsory cleansing and disinfection, and hygienic egg-handling;

7 a major education campaign, soon to be launched, designed to reduce food poisoning generally.

These measures, Mr MacGregor said, were 'one of the most comprehensive programmes for dealing with salmonella in any country in the world'.

Shorter Notes

RATE SUPPORT GRANT

The Government has announced the 1989-90 rate support grant settlements[1] for England and Wales.

In England, local authority relevant expenditure (expenditure taken into consideration when fixing grant) has been set at £31,356 million. Aggregate Exchequer grant will amount to £13,575 million (43 per cent of relevant expenditure compared with 46 per cent in 1988-89). Specific grants (for, among other things, law and order, housing improvement and the Urban Programme) will be £3,774 million, transport supplementary grant £204 million and national parks supplementary grant £9 million, leaving £9,588 million for rate support grant. Of this, domestic rate relief grant will total £737 million and block grant £8,851 million.

In Wales, relevant expenditure has been fixed at £2,058 million. Aggregate Exchequer grant will be £1,316 million (64 per cent of relevant expenditure compared with 66 per cent in 1988-89). Specific grants will amount to £244 million, transport supplementary grant to £20 million and national parks supplementary grant to £3 million, leaving £1,049 million for rate support grant. With domestic rate relief grant totalling £27 million, block grant will amount to £1,022 million.

Sources: *Local Government Finance (England): The Rate Support Grant Report (England) 1989/90.* Department of the Environment and Department of Transport. HMSO, £7·10. ISBN 0 10 207589 1; *Local Government Finance (Wales): The Welsh Rate Support Grant Report 1989-90.* Welsh Office. HMSO, £4·80. ISBN 1 10 203289 0.

[1]Rate support is a system whereby central government supplements the finances for current expenditure of local authorities (about one-third of which are derived from rates – local property taxes) so that they can provide services for which they are responsible to similar standards while reducing disparities in their rates. With the introduction in April 1990 of the community charge in England and Wales, rate support grant will be replaced by revenue support grant (see pp 17-18, 1988).

LOAN GUARANTEE SCHEME

An extension to the Loan Guarantee Scheme and changes in its terms were announced on 3 January by Mr John Cope, Minister of State for Employment. The purpose of the scheme – which was started in 1981 and had been due to end on 31 March (see p 382, 1987, and p 318, 1988) – is to assist small firms in raising finance for viable business proposals where lending from conventional sources is unavailable because of a lack of security or proven creditworthiness. The Government guarantees 70 per cent of such loans, rising to 85 per cent in inner city Task Force areas (see pp 178-9, 1987), in exchange for a premium payment of 2·5 per cent. By December 1988 the scheme had guaranteed over £680 million in loans to more than 20,000 small companies.

Mr Cope announced that the maximum loan guarantee available would be raised from £75,000 to £100,000. He said that the scheme had been successful in large measure because of close co-operation between the Department of Employment and lenders, notably the clearing banks. Usage of the scheme had increased substantially during 1988, with an average of 180 loans being authorised each month. The Government was persuaded on the basis of these figures and the findings of recent reports that there was a continued need for such a measure.

Source: Department of Employment press notice, 4.1.89.

GOVERNMENT SECURITIES

The first reverse auction of government stock (gilt-edged securities) took place on 13 January when the Bank of England purchased £500 million in total of 10 per cent Exchequer 1989 and 11 per cent

Exchequer 1989, both of which were due to mature later in the year. Offers for sale amounted to some £1,600 million.

Applications to sell could be made on either a competitive or a non-competitive basis. Competitive applications were ranked in ascending order of price requested and applications were accepted from stockholders whose price was at or below the highest the Bank was prepared to pay. Successful applicants were paid the price they requested. Competitive applications at prices below the highest accepted price were accepted in full; competitive applications at the highest accepted price were accepted in full or in part. Competitive applications had to be for a minimum of £100,000 of stock. Non-competitive applications that were accepted were accepted in full at a price equal to the average of the prices at which competitive applications were accepted. The lower limit for non-competitive applications was £1,000 and the upper limit £100,000.

The existence of a sizeable public sector debt repayment (see p 425, 1988) made necessary some buying in by the Bank of England of gilt-edged securities. The Bank is able to buy in stock as part of its day-to-day operations; the reverse auction extends the range of buying techniques and also helps to alleviate a seasonal shortage in money markets.

Sources: Bank of England press notices, 14.12.88 and 13.1.89; HM Treasury press notice, 14.12.88.

STERLING INDEX

A new sterling exchange rate index[1] was published by the Bank of England on 30 December 1988. The previous index dated from 1981 (see pp 57-8, 1981) and was based on trade flows in 1977; the base year was 1975=100. The weights for the new index are based on trade flows in manufactured goods in 1980. Manufactures account for over three-quarters of Britain's visible trade; the 16 countries whose currencies are included in the index represent a similar proportion of Britain's overseas markets. The most significant changes are a fall in the weight of the dollar from 24·6 per cent to 20·4 per cent and a rise in that of European Community currencies from 47·5 per cent to 55·6 per cent (including a rise in that of the Deutsche Mark from 14·1 per cent to 20 per cent). The base year for the new index is 1985=100.

Source: *Bank of England Quarterly Bulletin,* November 1988.

TRADE POLICY

Following his visit to Montreal for the mid-term meeting of the current – Uruguay – round of the General Agreement on Tariffs and Trade (GATT),[1] the Secretary of State for Trade and Industry, Lord Young, made a statement to the House of Lords on 12 December 1988.

He explained that the purpose of the meeting had been to consolidate the past two years' work on the Uruguay Round (see pp 328-9, 1986) and to lay down a basis for the second half of the negotiations. Substantial progress had been made on a number of issues of particular concern to Britain. Provisional frameworks regarding the liberalisation of trade in services, multilateral tariff reductions and a strengthening of GATT procedures, including the settlement of disputes, were agreed. Agreement was also reached on liberalising the import regime for tropical products, with the European Community undertaking to implement certain tariff reductions from 1 January 1989.

The Secretary of State expressed disappointment at the lack of agreement on agricultural reform. He explained that the United States had pressed for the elimination of agricultural support by a specified time. This had not been acceptable to the Community; nor had it been part of the 1986 declaration on the Uruguay Round. There had also been no progress on negotiations regarding trade in textiles, nor on increased protection of intellectual property (patents, designs, trade marks and copyright). In all three cases it had been decided to suspend discussion in Montreal with a view to further negotiation preparatory to a meeting in Geneva in early April.

Lord Young assured the House that, despite the suspension of the negotiations on agriculture, Britain would continue to strive for a positive outcome. The Government would be working with its Community partners to resolve outstanding issues and to ensure that the gains made at Montreal were consolidated in April and that, in the remaining two years of the Uruguay Round, further progress was made.

Source: *Hansard (HL),* Vol 502, No 10, written answers, cols 813-14.

EUROPEAN TOURISM YEAR

The first meeting held between European Community tourism ministers has designated 1990 European Tourism Year. Speaking on 15 December 1988 on his return from the meeting in Brussels, Mr John Lee, Parliamentary Under-Secretary of State at the Department of Employment, said that the year would involve a series of co-ordinated activities, including a number of prizes and awards to be given and the design of a European Tourism Year symbol.

Mr Lee said that European Tourism Year would aim to raise the profile of the tourism industry among member countries of the European Community, and to create wealth and jobs. It would attempt to extend the length of the tourism season and its geographical spread. A particular emphasis

[1]An exchange rate index is a measure of the value of a currency against a 'basket' of other currencies, relative to a base date. It is calculated as a weighted average of exchange rates and expressed in terms of an index.

[1]For further information, see COI reference paper *Britain and the International Trading System,* No 289/87.

would be placed on encouraging travel by young people and other groups such as the disabled.

Mr Lee noted that Britain's tourism industry had already significantly raised its profile: the annual turnover had now reached £18,000 million, a capital investment programme of more than £2,000 million was under way, and the industry employed some 1·4 million people (see pp 277-8, 1988). At present it was estimated to be creating about 1,000 jobs each week. Mr Lee said that European Tourism Year would help to boost the British industry even more, and he planned to head the national committee which would co-ordinate Britain's effort. Member countries would be able to draw on a £3 million Community fund to pay for related activities during the year.

Source: Department of Employment press notice, 15.12.88.

NEW CENTRE FOR OIL AND GAS RESEARCH

An Institute for Petroleum Science and Technology is to be established in Edinburgh to mark the twenty-fifth anniversary of North Sea oil and gas operations. It will be run by Heriot-Watt and Edinburgh universities and funded by the oil industry and the Department of Energy. Its activities will concentrate on four areas of petroleum exploitation – exploration, appraisal, development and production – and safe, efficient and economic solutions will be fundamental to its work. It will bring together scientists and technologists from a wide variety of backgrounds and will also seek to build collaborative links with other centres of petroleum research, including the establishment of joint research facilities and the exchange of teachers and students.

Over and above the contribution of the Department of Energy of £50,000 a year for five years, companies have come forward with contributions totalling some £5 million. Announcing the foundation of the Institute on 13 December 1988, the Minister of State for Energy, Mr Peter Morrison, said: 'Britain can now claim to be the world's capital of the offshore oil and gas industry. The Institute, as a centre for excellence, will add to that reputation'.

Source: Department of Energy press notice, 13.12.88.

CERN MEMBERSHIP

Mr Robert Jackson, Parliamentary Under-Secretary of State at the Department of Education and Science, announced on 15 December 1988 that Britain would remain a member of the European Organisation for Nuclear Research (CERN) beyond 1989. In a statement to the CERN Council in Geneva read on his behalf by Professor Bill Mitchell, leader of the British delegation, Mr Jackson welcomed the significant progress already made on implementing the recommendations of the CERN Review Committee to increase efficiency and introduce fairer arrangements for determining member states' contributions. Britain's expected contribution to CERN in 1989-90 will be about £47 million, compared with £54 million in 1988-89.

Mr Jackson reaffirmed Britain's commitment to the scientific research conducted by CERN, in particular the Large Electron-Positron collider at present under construction, but stressed that an important duty lay on the CERN Council to reduce the cost burden on member states through sound planning and cost-effective administration, and through the development of imaginative new methods of increasing income from both current and future activities.

The European Organisation for Nuclear Research (Organisation européenne pour la recherche nucléaire) was established in 1954. It replaced the Conseil européen pour la recherche nucléaire which had come into being in 1952. It provides world class laboratory facilities for particle physics research in Europe. Its 14 member states contribute to its budget in proportion to their net annual income. Britain has been pressing for reduced staff numbers, better forward planning and closer association with non-European countries.

Source: Department of Education and Science press notice, 15.12.88.

SPACE RESEARCH AGREEMENT

The European Space Agency (ESA) Council reached agreement on 15 December 1988 on the next steps for the European space science programme Horizon 2000 (see p 321, 1988), as part of the process of setting the ESA's budget for its mandatory programme for 1989-92. Member states will increase their contributions to Horizon 2000 by 5 per cent a year up to 1992. In addition there will be an independent review of the costs and management of the ESA science programme, to be completed by the end of 1989. This follows British concern that there should be measures to ensure that the programme was carried out in a cost-effective way.

Welcoming the agreement, the Secretary of State for Trade and Industry, Lord Young, highlighted the determination of the ESA to seek value for money from space science and Britain's commitment to Horizon 2000 as the centrepiece of national space science research (see p 281, 1988).

Source: Department of Trade and Industry press notice, 15.12.88.

SOCIAL AND CULTURAL AFFAIRS

Social Security Bill

The Social Security Bill received its second reading in the House of Commons on 10 January. Its main provisions aim to ensure that people seeking unemployment benefit take active steps to find work; to change the rules under which an unemployed person is considered to have good cause for turning down a job; and to increase from 75 to 80 the age limit for receipt of mobility allowance. The Bill is also designed to bring British law into line with the European Community directive on equal treatment for men and women in occupational pension schemes. Measures proposed in the Bill would reduce public expenditure by about £100 million between 1989 and 1990.

PROVISIONS OF THE BILL

Unemployment Benefit

The Bill would ensure that a person claiming benefit must show that he or she was actively seeking work. Regulations would be introduced to indicate how this condition would be met. It is also proposed to change the provisions under which an unemployed person is considered to have good cause to turn down a job. In future, after a permitted period the level of remuneration would not be accepted as good cause for turning down a job. This would apply to claims to both income support and unemployment benefit. At the same time the Bill proposes that a person who has been out of work continuously for 12 months would be able to take up a job and then give it up within a prescribed period if it did not work out, without being disqualified for unemployment benefit. It is also proposed that someone who has exhausted his or her entitlement to unemployment benefit would have to work as an employee for 16 or more hours a week in at least 13 of the 26 weeks immediately before a further claim to requalify for unemployment benefit was made.

While existing legislation provides for unemployment benefit to be reduced on account of payments of an occupational pension, it is now proposed to extend this to include personal pensions.

Equal Treatment in Occupational Pension Schemes

Provision would be made to implement the European Community directive issued in 1986 which requires member states to implement the principle of equal treatment for men and women in occupational pension schemes. The proposed legislation would override any difference of treatment in such schemes, whether that difference related to entitlement to membership, contributions paid by members and employers, or benefits received by members. Special safeguards, however, would be introduced for those absent from work for maternity or for family reasons, and schemes would not be required to provide widowers' benefits on the same terms as for widows. Since the directive does not require equality of pension age as long as the state scheme has unequal pension ages, the Bill would be amended during its passage to permit schemes to retain different ages at which retirement benefits came into payment. The legislation would apply to schemes from 1 January 1993.

Receipt of Both Benefits and Compensation for Injuries

At present a person who is entitled to social security benefits because of an accident, injury or disease may also receive compensation through awards of damages from a third party who is then able to deduct part or all of the value of benefits from the compensation award. This can lead to an element of double compensation. The Bill proposes that in future, therefore, the victim would continue to receive his or her full benefit entitlement, but that the third party would have to reimburse the state for a sum equivalent to the benefits. This scheme would in no way affect the injured person's entitlement to benefits. In most cases the amount of compensation received would be no less than at present.

Mobility Allowance

Provision is made to extend the upper age limit for payment of mobility allowance from 75 to 80 (see p 384, 1988).

Treasury Supplement

The Bill proposes to abolish the Treasury supplement to the National Insurance Fund from April 1989 as it is no longer necessary for the fund to be partly financed from general taxation. (When the fund was established in 1948 it was financed in roughly equal proportions by employees' contributions, by employers' contributions and from general taxation. In recent years, however, benefits paid for out of the fund have been wholly financed by contributory income.)

The Bill also contains a number of minor and technical changes, including amendments to correct deficiencies in the Social Security Act 1986.

PARLIAMENTARY DEBATE

The Bill was given a second reading in the House of Commons on 10 January by 292 votes to 230 (*Hansard*, Vol 144, No 24, cols 714-91).

Government View

Opening the debate, the Secretary of State for Social Security, Mr John Moore, spoke of the Government's duty to keep the social security system under review, to adapt it to meet the changing needs and circumstances of the 1980s and to look ahead to the challenges of the 1990s. In no area had the change in Britain over the last few years been more marked than in the labour market. New jobs in the new industries and services were being created in growing numbers; employment prospects had been transformed; and unemployment as a result was falling dramatically. However, despite this, about 700,000 jobs, many of them needing no special training, were still on offer in a typical month. Each of these vacancies presented an opportunity for unemployed people to gain the self-respect and independence that came from supporting themselves and their families by their own efforts. It was clearly the Government's duty, said Mr Moore, to help them realise that potential, not only for their own sake but for the good of the country as a whole.

It was not right for those claiming benefits because of unemployment to receive them without doing everything reasonable to find work. At present claimants could argue that by attending a jobcentre and claiming benefit every two weeks, they had done everything necessary to satisfy the existing requirements. While the vastmajority of claimants looked for work, that was no longer true for everyone. The Government was determined to ensure that unemployment benefits were paid only to those who were genuinely unemployed.

Turning to the Bill's provision for introducing an upper limit of 13 weeks to the time in which claimants could refuse work at lower wages than they were used to, Mr Moore said this would ensure that claimants could not continue indefinitely to price themselves out of any job they might reasonably be expected to get. The length of the permitted period would be decided on an individual basis but would depend on the skills of the individual and the sort of employment available locally. By limiting the period for which the wages on offer could be a factor, the Bill would remove the temptation for unemployed people to continue indefinitely to delude themselves about the wages they could command.

The proposals to change the provisions under which an unemployed person could be disqualified for unemployment benefit would encourage such people to broaden their search for jobs and their efforts to find work. Mr Moore said that after a lengthy period of unemployment, a person might often be unsure of his capability and be afraid to take up an unfamiliar job because, under present legislation, if it did not work out and he left voluntarily, he might be disqualified from unemployment benefit. The Government therefore intended that anyone who had been out of work for at least 12 months could be sure that he could leave a job voluntarily without fear of disqualification, provided he had given the job a fair trial. Overall the measures proposed in the Bill were expected to reduce the number of unemployed people by as many as 50,000.

On the provisions relating to receipt of both benefits and compensation for injuries, Mr Moore said that under the present system, payments of a range of benefits simply and directly reduced the amount of compensation to be paid to injured people by those found responsible for the injury. The injured person gained nothing from this arrangement while ordinary taxpayers and those paying contributions were effectively subsidising those responsible and their insurers. The Bill sought to ensure that accident victims should not be compensated twice and that the party responsible for the accident should not be able to escape part of that liability at the expense of the taxpayer. Benefit entitlement would not be affected in any case, while recoveries to the taxpayer from compensation paid by those liable for personal injuries were estimated at about £55 million a year.

The Secretary of State concluded that the Bill reflected the environment of a modern labour market and created conditions of still greater flexibility to vitalise the economy of the 1990s. Above all it embodied the Government's vision of the social security system: one which gave full support to those who could not support themselves; which stood on a firm link between benefits and contributions paid in work; and which encouraged people to take on their full responsibilities to support themselves and their families by their own efforts.

Opposition Views

Speaking for the official Opposition, Mrs Margaret Beckett welcomed the lifting of the age barrier for mobility allowance and the moves towards equal treatment for men and women in occupational pension schemes. However, her party wholeheartedly opposed other proposals. As regards the provisions relating to unemployment benefits, the Government had moved on from merely wishing to blame unemployment on its victims to harassing and hounding them to an unprecedented extent. Quite harsh tests already existed to assess people's willingness to work and there was no need for them to be further strengthened. The Bill would put pressure on people to take part-time or temporary work against their best interests. It was not designed to help people back into work; it was intended to prod and goad them and bring the unlucky ones up against their failings and failures over and over again.

For the Social and Liberal Democrats, Mr Archy Kirkwood also opposed the Bill, which was unnecessary because the existing law already gave the Government the power to tackle those who were workshy. It had missed an opportunity to provide the benefits that unemployed people in particular deserved. He agreed with the Secretary of State that the intention should be to give everyone the opportunity to increase his or her potential. However the Bill missed the chance to do just that.

The Future of Higher Education

In a speech at Lancaster University on 5 January, the Secretary of State for Education and Science, Mr Kenneth Baker, looked forward to a massive expansion in higher education in Britain over the next 25 years. There would be increased demand, greater participation and wider access, and the private sector would assume an ever more important funding role.

Size of the Higher Education Sector

Mr Baker said that in 25 years' time higher education in Britain (see pp 141-5, 1987) would be as markedly different from what it was at present as today's higher education sector was from that of 25 years ago. Then, there were just over 30 universities and barely 200,000 full-time and 100,000 part-time students compared with the current total of more than 50 universities (as well as about 100 polytechnics and colleges providing higher education) and nearly a million students. The student population had risen by over 200,000 since 1979 and a target of 50,000 additional students between 1985 and 1990 had been met by autumn 1987.

While the record of expansion of higher education in the 1980s was good and a credit to all who had made it possible, in the next 25 years there was scope for even greater progress. Assuming an average annual economic growth rate of 2 per cent, in 25 years Britain would be more than half as rich again as it was at present and income per head would be more or less at the level it was currently in the United States. This more affluent society would be a product of better education and its members would demand to be more highly educated.

The forecast decline in the number of 18-year-olds – by almost one-third between 1985 and 1995 – would make it difficult to maintain student numbers at present levels, but the Government had already indicated its intention that the student population engaged in higher education should be sustained in the mid-1990s by increasing the participation rate among 18-year-olds from nearly 15 per cent at present to around 20 per cent, and by higher education institutions recruiting students from population groups other than 18-year-old school-leavers. Mr Baker predicted that, as in the United States today, women would form a majority of the student population in Britain in 25 years' time, and that the numbers of students from the ethnic minority communities would grow both absolutely and proportionately. The Government intended to continue laying the foundations for that time in the latter part of the 1990s when the 18-year-old population would start to rise again and the higher education sector would be poised to expand on the basis both of increased participation from the conventional 18- to 21-year-old student age group and of new patterns of recruitment among non-traditional groups.

Structure and Funding

The Secretary of State went on to say that Britain was already spending a higher proportion of gross domestic product on higher education than any other western European country except the Netherlands. The type of higher education system Britain would have in 25 years would depend critically on the method by which it was funded. Where the provision of higher education was seen as a predominantly public function, provided free out of general taxation, its expansion was bound to be subject to financial constraints in order to secure it at acceptable cost to the taxpayer. However, if, as Mr Baker hoped would be the case, higher education were to be expanded on the basis of the pattern set in the United States, which involved much greater engagement of private resources, then it would be possible to achieve 'greater institutional differentiation and diversification in a market-led and multi-funded setting' and correspondingly more autonomy and flexibility.

Unlike British universities and colleges, higher education establishments in the United States offered a broad range of academic, vocational and recreational programmes of study (many being modular in nature, allowing progress and credit accumulation towards a final qualification) serving a diverse range of individual needs and aspirations. In Britain the traditional modes of provision should still be cultivated, but there would need to be much greater emphasis on a variety of approaches better able to satisfy the requirements of different types of students. Mass higher education in Britain should cater for a range of capabilities and be more varied in the nature of the courses it offered. Courses seeking to harness the strengths of several disciplines ('mixed courses' such as those combining business studies and a foreign language) were likely to prove more and more popular in the future.

As higher education expanded, the values of professionalism and enterprise would assume a larger place alongside the more traditional academic values. Teaching and research should continue to be integrated, but government funding of research ought to become separately identified and increasingly concentrated on the highest quality research work.

The higher education sector in Britain had started to increase income from private sources, but much more should be done to build on this welcome trend by attracting more private and corporate endowments and sponsorship as well as research contracts from the private sector. Mr Baker said that he did not believe that the proper autonomy of higher education institutions could be sustained if their funding and accountability were narrowly focused on the State. While for the foreseeable future higher education would be financed in the main by the State, provided access was preserved – particularly for the less well off – funding and accountability could become more and more diversified with resulting benefits for society.

Shorter Note

HEART TRANSPLANT PROGRAMME

A major expansion in Britain's heart transplant programme (see p 76, 1986) was announced by the Secretary of State for Health, Mr Kenneth Clarke, on 13 December 1988: as well as continuing to care for

over 350 patients who have already had transplants, more than 450 heart and heart-lung transplant operations are scheduled to be carried out in 1989-90 and funding for the programme will rise from £6·8 million in 1988-89 to £9·1 million in the following year. Between 1 January and 25 November 1988, 348 heart and heart-lung transplant operations were performed, compared with 288 in the same period in the previous year.

Nearly £1 million is to be spent in 1989-90 on essential capital developments at the heart transplant centres in Britain: this will provide an operating theatre at Papworth Hospital in Cambridge, a second transplant ward at Harefield Hospital, London, and intensive care beds at Newcastle Hospital. A fourth heart transplant centre was opened at Wythenshawe Hospital, Manchester, in 1988, and a fifth centre is expected to receive central funding from April 1990.

Sources: Department of Health press notices, 13.12.88 and 20.12.88.

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